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Wednesday
February 10, 1993

Briefing on How To Use the Federal Register
For information on a briefing in Washington, DC, see announcement on the inside cover of this issue.

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THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: March 5 at 9:00 a.m.

WHERE: Office of the Federal Register, 7th Floor Conference Room, 800 North Capitol Street NW, Washington, DC

RESERVATIONS: 202-523-4538

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Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, Federal Register finding aids, and a list of Clinton Administration officials is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
Vol. 58, No. 26
Wednesday, February 10, 1993

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-CE-48-AD; Amendment 39-8486; AD 93-02-04]

Airworthiness Directives; de Havilland DHC-6 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 77-03-07, which requires repetitively inspecting the alloy reinforcing channels of the elevator control circuit and the hand pump mounting support for cracks on certain de Havilland DHC-6 series airplanes, and replacing any cracked part. The Federal Aviation Administration's policy on aging commuter-class aircraft is to eliminate certain repetitive short-interval inspections when improved parts or modifications are available. This action requires modifying the elevator circuit control and hand pump mounting support as terminating action for the repetitive inspections currently required by AD 77-03-07. The actions specified by this AD are intended to prevent failure of the elevator support assembly, which could result in loss of control of the airplane.

DATES: Effective March 19, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 19, 1993.

ADDRESSES: Service information that applies to this AD may be obtained from de Havilland, Inc., 123 Garratt Boulevard, Downsview, Ontario, Canada, M3K 1Y5. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jon Hjelm, Aerospace Engineer, FAA, New York Aircraft Certification Office, 181 South Franklin Avenue, room 202, Valley Stream, New York 11581; Telephone (516) 791-6220.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD that would apply to certain de Havilland DHC-6 series airplanes was published in the **Federal Register** on July 20, 1992 (57 FR 31990). The action proposed to supersede AD 77-03-07, Amendment 39-3100, with a new AD that would (1) initially retain the requirement of repetitively inspecting the elevator support assembly for cracks and replacing any cracked part as required by AD 77-03-07; and (2) eventually require modifying the elevator support assembly as terminating action for the repetitive inspections. The proposed actions would be accomplished in accordance with de Havilland Service Bulletin No. 6/348, which incorporates the following pages:

Pages	Revision level	Date
5-8, 13-16, and 23-25.	Original	July 16, 1976.
9-12, and 17-22.	Revision A	Aug. 30, 1976.
1-4	Revision C	July 15, 1977.

This action is a result of the FAA's aging aircraft program.

Interested persons have been afforded an opportunity to participate in the making of this amendment. One comment was received in favor of the proposed rule and no comments were received on the FAA's determination of the cost to the public.

After careful review, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD nor add any additional burden upon the public than was already proposed.

The FAA estimates that 144 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 35 workhours per airplane to accomplish the required action, and that the average labor rate is approximately $55 an hour. Parts cost approximately $400 per airplane. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $334,800.

The intent of the FAA's aging commuter airplane program is to ensure safe operation of commuter-class airplanes that are in commercial service without adversely impacting private operators. Of the approximately 144 airplanes in the U.S. registry that will be affected by the required AD, the FAA has determined that approximately 50 percent are operated in scheduled passenger service by 14 different operators. A significant number of the remaining 50 percent are operated in other forms of air transportation such as air cargo and air taxi.

The required AD allows 2,400 hours time-in-service (TIS) before mandatory accomplishment of the design modification. The average utilization of the fleet for those airplanes in commercial commuter service is approximately 25 to 50 hours TIS per week. Based on these figures, operators of commuter-class airplanes involved in commercial operation will have to accomplish the required modification within 12 to 24 calendar months after this AD becomes effective. For private owners, who typically operate between 100 to 200 hours TIS per year, this will allow 12 to 24 years before the required modification becomes mandatory.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory

Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing AD 77-03-07, Amendment 39-3100, and adding the following new AD:

93-02-04 De Havilland: Amendment 39-8486; Docket No. 91-CE-48-AD. Supersedes AD 77-03-07, Amendment 39-3100.

Applicability: Model DHC-6-1/100/200/300 airplanes (serial numbers 2 through 494, 497 through 503, 505, and 507), certificated in any category, that have not incorporated Modification 6/1594 in accordance with Part C of the Accomplishment Instructions section of de Havilland Service Bulletin (SB) 6/348, which incorporates the following pages:

Pages	Revision level	Date
5-8, 13-16, and 23-25.	Original	July 16, 1976.
9-12, and 17-22.	Revision A	Aug. 30, 1976.
1-4	Revision C	July 15, 1977.

Compliance: Required as indicated after the effective date of this AD, unless already accomplished.

To prevent failure of the elevator support assembly, which could result in loss of control of the airplane, accomplish the following:

(a) Within the next 25 hours time-in-service (TIS), unless already accomplished within the last 175 hours TIS, and thereafter at intervals not to exceed 200 hours TIS until Modification No. 6/1594 is incorporated as specified in paragraph (b) of this AD, accomplish the following:

(1) Visually inspect the floor structure channel members, part numbers C6FS1229-37 and C6FS1229-31, for cracks in the area around the lower pivot bearing housing in accordance with the instructions in Part A of de Havilland SB No. 6/348. If cracks are found, prior to further flight, repair or replace any cracked components in accordance with Part B or C of the Accomplishment Instructions section of de Havilland SB No. 6/348.

(2) Visually inspect the top and bottom flanges of the hydraulic hand pump fitting, part number C6FSM1293-27, for cracks immediately behind the front bolt boss in accordance with Part A of the Accomplishment Instructions section of de Havilland SB No. 6/348. If cracks are found, prior to further flight, repair or replace in accordance with Part B or C of the instructions in de Havilland SB No. 6/348.

(3) If the replacement requirements of paragraphs (a)(1) and (a)(2) of this AD are accomplished in accordance with Part C of the Accomplishment Instructions section of de Havilland SB No. 6/348, then the inspection requirements of this AD are no longer required.

(b) Within the next 2,400 hours TIS, unless already accomplished as specified in paragraph (a)(3) of this AD, incorporate Modification 6/1594 in accordance with Part C of the Accomplishment Instructions section of de Havilland SB 6/348. This modification is considered terminating action for the inspection requirements of this AD.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, New York Aircraft Certification Office, FAA, 181 South Franklin Avenue, room 202, Valley Stream, New York 11581. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, New York Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York Aircraft Certification Office.

(e) The inspections and modification required by this AD shall be done in accordance with de Havilland Service Bulletin 6/348, which consists of the following effective pages:

Pages	Revision level	Date
5-8, 13-16, and 23-25.	Original	July 16, 1976.
9-12, and 17-22.	Revision A	Aug. 30, 1976.
1-4	Revision C	July 15, 1977.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from de Havilland, Inc., 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5 Canada. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment (39-8486) supersedes AD 77-03-07, Amendment 39-3100.

(g) This amendment (39-8486) becomes effective on March 19, 1993.

Issued in Kansas City, Missouri, on January 21, 1993.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-3170 Filed 2-9-93; 8:45 am]

BILLING CODE 4910-13-U

14 CFR Part 39

[Docket No. 92-CE-65-AD; Amendment 39-8497; AD 92-27-20]

Airworthiness Directives; Cessna Aircraft Company Model 402C Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 92-27-20, which was sent previously to all known U.S. owners and operators of certain Cessna Aircraft Company (Cessna) Model 402C airplanes. This AD requires fabricating and installing placards that specify higher unusable fuel levels and higher minimum fuel levels for takeoff per each main tank, and one that specifies that rolling and turning takeoffs are prohibited. This action also requires incorporating the AD into the Limitations Section of the Pilots Operating Handbook (POH) and FAA-approved Airplane Flight Manual (AFM). This action was prompted by a fatal accident involving one of the affected airplanes where a fuel inlet float valve may have failed while the valve was in the open position. The actions specified by this AD are intended to prevent engine power loss caused by failure of a fuel inlet float valve.

DATES: Effective February 19, 1993, to all persons except those to whom it was made immediately effective by priority letter AD 92-27-20, issued December 31, 1992, which contained the requirements of this amendment.

Comments for inclusion in the Rules Docket must be received on or before April 30, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region,

Office of the Assistant Chief Counsel, Attention: Rules Docket 92–CE–65–AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Information that is discussed in this AD may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Charles D. Riddle, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946–4144; Facsimile (316) 946–4407.

SUPPLEMENTARY INFORMATION: On December 24, 1992, the FAA issued priority letter Airworthiness Directive (AD) 92–26–10, which required fabricating and installing placards that specify higher unusable fuel limitations on certain Cessna Model 402C airplanes. This action was prompted by a fatal accident involving a Cessna Model 402C airplane. The FAA's continuing investigation of this accident revealed that a fuel inlet float valve, located in the right wing fuel tank on the affected airplane, may have failed while the valve was in the open position. This may have permitted air to enter the fuel system, which could have caused the power loss resulting in the accident.

The actions required by AD 92–26–10 establish a 300-pound (46-gallon) unusable fuel level and a 430-pound (66-gallon) fuel level at takeoff per each main tank. These levels were established based upon the FAA's continuing investigation utilizing Cessna Engineering's preliminary geometrical analysis. Although this analysis was preliminary and conservative, the FAA determined that AD action could not wait until further analysis based on the urgency of the situation. In reality, the amount of usable fuel was reduced by the actions of AD 92–26–10 from 103 gallons to 57 gallons. This action heavily impacted many operators because they have had to increase the number of stops required to refuel, and thus increase the number of landings and takeoffs.

As part of the ongoing investigation, the FAA and Cessna Engineering continued the geometrical analysis and testing. This revealed that the unusable fuel level necessary to prevent air from entering the fuel system is no more than 90 pounds (15 gallons) of indicated fuel. This is in addition to the previously determined unusable fuel of 3.7 gallons, which is not indicated on the fuel quantity gage.

Based upon updated results from the ongoing investigation, the FAA then determined that an equivalent level of safety to the actions of AD 92–26–10 could be established if the requirements of the 300-pound (46-gallon) unusable fuel level and the 430-pound (66-gallon) fuel level at takeoff were reduced to 90 pounds (15 gallons) and 210 pounds (35 gallons) respectively. This would actually increase the available fuel from 57 gallons to 88 gallons, which would reduce the amount of stops necessary for the airplane operators to refuel. The FAA believes that aviation safety is enhanced if the number of landings and takeoffs are reduced while an equivalent level of safety is maintained. In addition, the FAA determined that rolling and turning takeoffs should be prohibited.

Since an unsafe condition has been identified that is likely to exist or develop on other Cessna Model 402C airplanes of this same type design, the FAA superseded priority letter AD 92–26–10 with priority letter 92–27–20 to continue to prevent engine power loss caused by failure of a fuel inlet float valve. This AD requires (1) fabricating and installing new placards that specify lower unusable fuel levels and lower fuel levels at takeoff; (2) fabricating and installing a new placard that specifies that rolling and turning takeoffs are prohibited; and (3) incorporating this AD into the Limitations Section of the Pilot's Operating Handbook (POH) and FAA-approved Airplane Flight Manual (AFM).

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on December 31, 1992, to all known U.S. operators of certain Cessna Model 402C airplanes. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of part 39 of the Federal Aviation Regulations (FAR) to make it effective as to all persons.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting immediate flight safety and, thus, was not preceded by notice and opportunity to comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 92–CE–65–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

92-27-20 Cessna Aircraft Company: Amendment 39-8497; Docket No. 92-CE-65-AD. Supersedes priority letter AD 92-26-10.

Applicability: Model 402C airplanes (serial numbers 402C0001 through 402C1020), certificated in any category.

Compliance: Prior to further flight after the effective date of this AD, unless already accomplished.

To prevent engine power loss caused by failure of a fuel inlet float valve, accomplish the following:

(a) Fabricate placards with the following words in letters at least 0.10-inch in height and install these placards within the pilot's clear view on the instrument panel in close proximity to the fuel quantity gage:

(1) "Unusable Fuel-Indicated Fuel Quantity Below 90 Pounds (15 Gallons) in Each Main Tank is Unusable".

(2) "Fuel Quantity-Minimum Indicated Fuel Quantity for Takeoff is 210 Pounds (35 Gallons) in Each Main Tank".

(b) Fabricate a placard with the following words in letters at least 0.10-inch in height and install this placard within the pilot's clear view on the instrument panel: "Rolling, Turning Takeoffs Are Prohibited."

(c) Fabricate four placards with the words "88 GAL". Install these placards covering the four existing "57 GAL" markings on the existing placard around the engine fuel selector handles.

Note 1: The four existing "57 GAL" markings on the existing placard around the engine fuel selector handles were "103 GAL" before AD 92-26-10 was issued.

(d) Insert a copy of this AD into the Limitations Section of the Pilots Operating Handbook (POH) and FAA-approved Airplane Flight Manual (AFM).

Note 2: The above limitations take precedence over any other POH/AFM Limitations that could contradict this action.

(e) The actions required by this AD may be performed by the owner/operator holding at least a private pilot certificate as authorized by FAR 43.7, and must be entered into the aircraft records showing compliance with this AD in accordance with FAR 43.11.

(f) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(g) An alternative method of compliance that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may concur or comment and then send it to the Manager, Wichita Aircraft Certification Office.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita Aircraft Certification Office.

(h) This amendment (39-8497) supersedes priority letter AD 92-26-10.

(i) This amendment (39-8497) becomes effective on February 19, 1993, to all persons except those persons to whom it was made immediately effective by priority letter AD 92-27-20, issued December 31, 1992, which contained the requirements of this amendment.

Issued in Kansas City, Missouri, on February 4, 1993.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-3171 Filed 2-9-93; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Droncit® (Praziquantel) Feline Cestode Tablets

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Miles, Inc., Agriculture Division, Animal Health Products. The supplement provides for oral use of an 11.5 milligram (mg) spherical Droncit® (praziquantel) feline cestode tablet.

EFFECTIVE DATE: February 10, 1993.

FOR FURTHER INFORMATION CONTACT: Marcia K. Larkins, Center for Veterinary Medicine (HFV-112), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-295-8614.

SUPPLEMENTARY INFORMATION: Miles, Inc., Agriculture Division, Animal Health Products, P.O. Box 390, Shawnee Mission, KS 66201, filed supplemental NADA 111-798, which provides for oral use of an 11.5 mg spherical Droncit® (praziquantel) feline cestode tablet in addition to the approved 23 mg feline tablet and the 34 mg canine tablet. The supplement was approved April 11, 1991. Inadvertently, the regulations were not amended at that time to reflect that approval. The regulations are amended at this time in § 520.1870 to reflect approval of this supplement.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), this supplemental approval did not qualify for marketing exclusivity because no new clinical or field investigations (other than bioequivalence studies) essential to the approval were conducted or sponsored by the applicant.

The agency determined under 21 CFR 25.24(d)(1)(i) that this action was of a type that did not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement was required.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

2. Section 520.1870 is amended by revising paragraphs (a) and (c)(2)(ii) to read as follows:

§ 520.1870 Praziquantel tablets.

(a) *Specifications.* Each dog tablet contains 34 milligrams (mg) of

praziquantel; each cat tablet contains 11.5 or 23 mg of praziquantel.

* * * * *

(c) * * *

(2) * * *

(ii) *Dosage.* Cats 4 pounds and under, 11.5 mg; 5 to 11 pounds, 23 mg; over 11 pounds, 34.5 mg.

* * * * *

Dated: February 1, 1993.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 93-3103 Filed 2-9-93; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8459]

RIN 1545-AO99

Settlement Funds; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to Treasury Decision 8459, which was published in the **Federal Register** for Wednesday, December 23, 1992 (57 FR 60983). The final regulations relate to the tax treatment of transfers to funds, accounts, and trusts used in the settlement of certain controversies, the taxation of income earned by these funds, and the tax treatment of distributions made by these funds.

EFFECTIVE DATE: January 1, 1993.

FOR FURTHER INFORMATION CONTACT: Linda M. Kroening of the Office of Assistant Chief Counsel (Income Tax & Accounting) (202) 622-4910 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections provide rules under section 468B of the Internal Revenue Code.

Need for Correction

As published, T.D. 8459 contains errors which may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of final regulations (T.D. 8459), which was the subject of FR Doc. 92-31054, is corrected as follows:

1. On page 60990, column 2, § 1.468B-1(j)(2)(ii), sixth line from the bottom of the introductory paragraph, the language "§ 1.468B-4, of each transferor for the" is corrected to read "1.468B-4, of each transferor for the".

2. On page 60990, column 3, § 1.468B-1(k), *Example 3*, fifth line from the bottom of the paragraph, the language "$10 million dollars, and is taxable on any" is corrected to read "$10 million, and is taxable on any".

3. On page 60992, column 1, § 1.468B-2(k), line 3, the language "otherwise provided in §§ 1.468B-5(b)" is corrected to read "otherwise provided in § 1.468B-5(b)".

Cynthia E. Grigsby,

Alternate Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 93-3092 Filed 2-9-93; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Parts 201, 236, and 246

[DoD Instruction 4160.23; DoD Directive 4000.8; and DoD Directive 1225.5]

Cancellation of DoD Issuances

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Final rule.

SUMMARY: The Department of Defense hereby removes regulations on the sale of surplus military equipment to state and local law enforcement and firefighting agencies; basic regulations in the military supply system; and regulations on guard/reserve forces facilities projects (DoD Instruction 4160.23; DoD Directive 4000.8; DoD Directive 1225.5). These regulations have served the purpose for which they were issued and are no longer valid.

EFFECTIVE DATE: January 4, 1993.

FOR FURTHER INFORMATION CONTACT: L.M. Bynum, Correspondence and Directives Directorate, 1155 Defense Pentagon, Washington, DC 20301-1155.

SUPPLEMENTARY INFORMATION:

List of Subjects in

32 CFR Part 201

Arms and munitions, Fire prevention, Intergovernmental relations, Law enforcement, Surplus Government property.

32 CFR Part 236

Armed forces, Government procurement.

32 CFR Part 246

Armed forces reserves, Federal buildings and facilities.

PART 201—[REMOVED]

Accordingly, by the authority of 5 U.S.C. 301, 32 CFR part 201 is removed.

PART 236—[REMOVED]

Accordingly, by the authority of 5 U.S.C. 301, 32 CFR part 236 is removed.

PART 246—[REMOVED]

Accordingly, by the authority of 5 U.S.C. 301, 32 CFR part 246 is removed.

Dated: February 5, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93-3138 Filed 2-9-93; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-4593-3]

South Carolina; Final Authorization of Revisions to State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: South Carolina has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). South Carolina revisions consists of the Toxicity Characteristic provisions of HSWA Cluster II promulgated March 29, 1990, and June 29, 1990. These requirements are listed in Section B of this notice. The Environmental Protection Agency (EPA) has reviewed South Carolina's application and has made a decision, subject to public review and comment, that the South Carolina hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve South Carolina's hazardous waste program revisions. South Carolina's application for program revisions are available for public review and comment.

DATES: Final authorization for South Carolina's program revision shall be effective April 12, 1993, unless EPA publishes a prior **Federal Register** action withdrawing this immediate final rule. All comments on South Carolina's

program revision application must be received by the close of business, March 12, 1993.

ADDRESSES: Copies of South Carolina's program revision application is available during normal business hours at the following addresses for inspection and copying: Bureau of Solid and Hazardous Waste Management, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201; U.S. EPA Region IV, Library, 345 Courtland Street NE., Atlanta, Georgia 30365; (404) 347–4216. Written comments should be sent to Narindar Kumar at the address listed below.

FOR FURTHER INFORMATION CONTACT: Narindar Kumar, Chief, Staff Programs Section, Waste Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365; (404) 347–2234.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act ("RCRA" or "the Act"), 42 U.S.C. 6296(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98–616, November 8, 1984, hereinafter "HSWA") allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive "interim authorization" for the HSWA requirements under section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements.

Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR parts 260–268 and 124 and 270.

B. South Carolina

South Carolina initially received final authorization for its base, RCRA program effective on November 22, 1985. South Carolina has received authorization for revisions to its program on September 13, 1987 (52 FR 26476) and November 7, 1988 (53 FR 34759). On May 21, 1992, South Carolina submitted a program revision application for additional program approvals. Today, South Carolina is seeking approval of its program revisions in accordance with 40 CFR 271.21(b)(3).

EPA has reviewed South Carolina's application and has made an immediate final decision that South Carolina's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modification to South Carolina. The public may submit written comments on EPA's immediate final decision up until March 12, 1993.

Copies of South Carolina's application for this program revision is available for inspection and copying at the locations indicated in the **ADDRESSES** section of this notice.

Approval of South Carolina's program revision shall become effective April 12, 1993, unless an adverse comment pertaining to the State's revision discussed in this notice is received by the end of the comment period.

If an adverse comment is received EPA will publish either (1) a withdrawal of the immediate final decision or (2) a notice containing a response to comments which either affirms that the immediate final decision takes effect or reverses the decision.

EPA shall administer any RCRA hazardous waste permits, or portions of permits that contain conditions based upon the Federal program provisions for which the State is applying for authorization and which were issued by EPA prior to the effective date of this authorization. EPA will suspend issuance of any further permits under the provisions for which the State is being authorized on the effective date of this authorization.

South Carolina is today seeking authority to administer the Toxicity Characteristic Revisions, promulgated on March 29, 1990, and June 29, 1990.

Federal requirements	HSWA or FR notice	Promulgation	State authority
Toxicity	55 FR 11798	3/29/90	261.4(b)(6)(i).
Characteristic requirements	55 FR 26986	6/29/90	261.4(b)(9), 261.4(b)(10), 261.8, 261.24(a), 261.24(b), 261.30(b), Appendix II, 261.301(e)(1), 261.221(d)(1), 261.273(a), Appendix I.

C. Decision

I conclude that South Carolina's application for these program revisions meet all of the statutory and regulatory requirements established by RCRA. Accordingly, South Carolina is granted final authorization to operate its hazardous waste program as revised.

South Carolina now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out other aspects of the RCRA program, subject to the limitations of its program revision application and previously approved authorities. South Carolina also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA and to take enforcement actions under sections 3008, 3013, and 7003 of RCRA.

Compliance With Executive Order 12291: The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act: Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of South Carolina's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of sections 2002(a), 3006, and

7004(b) of the Solid Waste Disposal Act as amended (42 U.S.C. 6912(a), 6926, 6974(b)).

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 93–3156 Filed 2–9–93; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6957

[UT–940–4210–06; UTU 42939]

Partial Revocation of Bureau of Land Management Order Dated January 30, 1956; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a Bureau of Land Management Order insofar as it affects 9.06 acres of National Forest System land withdrawn for use by the Bureau of Reclamation for the Central Utah Project. The land is no longer needed for the purpose of the withdrawal, and the revocation is needed to permit disposal of the land through a land exchange under the General Exchange Act of 1922. This action will open the land to such forms of disposition as may by law be made of National Forest System land. The land is temporarily closed to mining by a Forest Service exchange proposal. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: March 12, 1993.

FOR FURTHER INFORMATION CONTACT: Randy Massey, BLM Utah State Office, P.O. Box 45155, Salt Lake City, Utah 84145–0155, 801–539–4119.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Bureau of Land Management Order dated January 30, 1956, which withdrew National Forest System land for use by the Bureau of Reclamation for the Central Utah Project, is hereby revoked insofar as it affects the following described land:

Uintah Special Meridian

Ashley National Forest

T. 1 N., R. 9 W.,
Sec. 1, lot 5.

The area described contains 9.06 acres in Duchesne County.

2. At 9 a.m. on March 12, 1993, the land shall be opened to such forms of disposition as may by law be made of National Forest System land, subject to valid existing rights, the provision of existing withdrawals, other segregations of record, and the requirements of applicable law.

Dated: January 15, 1993.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 93–3141 Filed 2–9–93; 8:45 am]

BILLING CODE 4310–DQ–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 61, 69

[CC Docket No. 86–10, FCC 93–53]

Provision of Access for 800 Service

AGENCY: Federal Communications Commission (FCC).

ACTION: Final rule.

SUMMARY: This order adopts rate structure and pricing rules for 800 data base access services. It requires basic 800 data base access service to be priced on a per query basis and to be treated as a restructured service under Price Cap rules, although it permits local telephone companies to recover specific direct costs of providing the basic service: It also requires optional 800 data base "vertical" features to be treated as new services and priced to reflect the nature of their underlying costs. These rules will permit local telephone companies to file tariffs to provide 800 data base access services. The introduction of 800 data base access services will permit 800 service customers to switch from one 800 service provider to another without changing their 800 telephone numbers. It will also facilitate competition among 800 service providers.

EFFECTIVE DATE: March 1, 1993.

FOR FURTHER INFORMATION CONTACT: Mark S. Nadel, Common Carrier Bureau, (202) 632–1301.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. 3507. Persons wishing to comment on this information collection should contact Jonas Neihardt, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, telephone (202) 395–4814. For further information contact Judy Boley, Federal Communications Commission, telephone (202) 632–7513.

Please note: The Commission has requested emergency review of this item by February 22, 1993 under the provisions of 5 CFR 1320.18.

Title: Provision of Access for 800 Service
Action: New Collection
Respondents: Businesses or other for-profit
Frequency of Response: One-time collection
Estimated Annual Burden: 57 responses; 60.7 hours average burden
Needs and Uses: Local telephone companies are required to file tariffs to provide 800 data base access services. Tariffs must be filed by carriers so that both the Commission and the public can evaluate whether the prices that carriers seek to charge for the services are reasonable and are not unreasonably discriminatory.

Background

In 1989, the Commission adopted Provision of Access for 800 Service, CC Docket No. 86–10, Report and Order, 4 FCC Rcd 2824, 54 FR 18654 (May 2, 1989), permitting local exchange carriers (LECs) to replace "NXX" 800 access with the 800 data base system when they had collectively achieved a specified level of signaling system 7 (SS7) deployment. That order also required LECs to offer 800 data base access through separate subelements for carrier identification and various optional "vertical" features so that only those customers who actually use each service—those who generate the costs—pay for it. The Commission also held that SS7 represents a general network upgrade, the core costs of which should be borne by all network users.

In 1991, in Provision of Access for 800 Service, CC Docket No. 86–10, Memorandum Opinion and Order on Reconsideration and Second Supplemental Notice of Proposed Rulemaking, 6 FCC Rcd 5421, 56 FR 51666 (Oct. 15, 1991), the Commission Order affirmed both its latter decisions, and the Supplemental Notice asked for comments on the appropriate rate structure and pricing rules for 800 data base access services, including both basic and vertical 800 data base services. It also asked for comments on how the new rate subelements should be treated under the price cap rules.

Summary of Second Report and Order

This is a summary of the Commission's Second Report and Order in Provision of Access for 800 Service CC Docket No. 86–10; FCC 93–53, Adopted: January 29, 1993 and

Released: January 29, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M St., NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, (202)–857–3800, 2100 M St., NW., suite 140, Washington, DC 20037.

The Commission has adopted rate structure and pricing rules for 800 data base access services to permit LECs to tariff these services and thereby facilitate competition among those providing 800 service to customers. The new rules are necessary to permit separate charges to be assessed for 800 data base access services.

Under the new rules, LECs will establish a per query charge for basic 800 data base service. This charge will enable LECs to recover the cost of making the 800 data base queries that they will need to make to determine to which carrier to send an 800 call. The Commission and virtually all commenters found that a per query charge best reflects the cost of providing the service.

The Commission also held that basic 800 data base service should be treated as a restructured service under the Commission's price cap rules. The Commission found that basic 800 data base service will replace the existing "NXX" 800 service and therefore does not add to the range of options already available to customers. The Commission also concluded that it is a change in the "provisioning" of 800 access service.

The Commission also found that there is good cause to permit LECs to recover the reasonable costs of implementing and operating the basic 800 data base service required by the Commission. Therefore, it concluded that these costs could be treated as exogenous costs under price cap rules. The Commission based this decision on the set of highly unusual circumstances involved in this proceeding. These included the Commission's decision to require that all LECs offering NXX 800 access also provide 800 data base access and the Commission's imposition of stricter access time standards and an aggressive accelerated implementation schedule for the service.

The Commission also required LECs to price optional "vertical" 800 data base services to reasonably reflect their underlying costs, and recognized those services as new services. Finally, the Commission required LECs subject to price cap regulation to place all 800 data base service subelements in a new, separate "data base" service category within the traffic sensitive switched access basket under price caps. These LECs must also employ a sub-index for vertical features. Both the service category and sub-index must have five percent upper and lower bounds.

List of Subjects in 47 CFR Parts 61 and 69

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Amendments to the Code of Federal Regulations

Title 47 of the CFR, parts 61 and 69 are amended as follows:

PART 61—TARIFFS

1. The authority citation for part 61 continues to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply sec. 203, 48 Stat. 1070; 47 U.S.C. 203.

2. Section 61.42(e)(1)(vi) is added to read as follows:

§ 61.42 Price cap baskets and service categories.

* * * * *

(e)(1) * * *

(vi) Data base access, including basic 800 data base access, call validation, POTS translation, alternate POTS translation, multiple carrier routing, and traffic routing services, as described in Provision of Access for 800 Service, Second Report and Order, 8 FCC Rcd _____, CC Docket No. 86–10, FCC 93–53 (1933) and other such services as the Commission shall permit or require.

* * * * *

3. Section 61.47(i) is added to read as follows:

§ 61.47 Adjustments to the SBI; pricing bands.

* * * * *

(i) Local exchange carriers subject to price cap regulation as that term is defined in § 61.3(v) shall use the methodology set forth in paragraphs (a) through (d) of this section to calculate a separate subindex for the 800 data base vertical features offered by such carriers. Notwithstanding paragraph (e) of this section, the annual pricing flexibility for this subindex shall be limited to an annual increase or decrease of five percent, relative to the percentage change in the PCI for the traffic sensitive basket, measured from the last day of the preceding tariff year.

PART 69—ACCESS CHARGES

1. The authority citation for part 69 continues to read as follows:

Authority: Secs. 4, 201, 202, 203, 205, 213, 403, 48 Stat. 1066, 1070, 1072, 1077, 1094, as amended, 47 U.S.C. 154, 201, 202, 203, 205, 218, 403.

2. Section 69.118 is revised to read as follows:

§ 69.118 Traffic sensitive switched services.

Notwithstanding §§ 69.4(b), 69.106, 69.109, 69.110, 69.111, 69.112, and 69.124, telephone companies subject to the BOC ONA Order, 4 FCC Rcd 1 (1988) shall, and other telephone companies may, establish approved Basic Service Elements as provided in Amendments of part 69 of the Commission's rules relating to the Creation of Access Charge Subelements for Open Network Architecture, Report and Order, 6 FCC Rcd 4524 (1991) and 800 data base subelements, as provided in Provision of Access for 800 Service, 8 FCC Rcd _____, CC Docket 86–10, FCC 93–53 (1993). Moreover, all customers that use basic 800 database service shall be assessed a charge that is expressed in dollars and cents per query. Telephone companies shall take into account revenues from the relevant Basic Service Element or Elements and 800 Database Service Elements in computing rates for the Local Switching, Entrance Facilities, Tandem-Switched Transport, Direct-Trunked Transport, Interconnection Charge, and/or Information elements.

Public reporting burden for this collection of information is estimated to average 60.7 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Federal Communications Commission, Records Management Division, room 416, Paperwork Reduction Project, Washington, DC 20554 and to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503.

[FR Doc. 93–3129 Filed 2–9–93; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 92-177; RM-8043]

Radio Broadcasting Services; Lamoni, IA.

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Dwaine F. Meyer, substitutes Channel 250C3 for Channel 249A at Lamoni, Iowa, and modifies Station KLAL's license to specify operation on the higher class channel. See 57 FR 39383, August 31, 1992. Channel 250C3 can be allotted to Lamoni in compliance with the Commission's minimum distance separation requirements at Station KLAL's presently licensed transmitter site, at coordinates North Latitude 40-37-00 and West Longitude 93-56-20. With this action, this proceeding is terminated.

EFFECTIVE DATE: March 22, 1993.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 92-177, adopted January 21, 1993, and released February 4, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

47 CFR PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Iowa, is amended by removing Channel 249A and adding Channel 250C3 at Lamoni.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93-3128 Filed 2-9-93; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 58, No. 26
Wednesday, February 10, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 54

[FRL-4555-9]
RIN 2060-AD17

Regulations Governing Prior Notice of Citizen Suits Brought Under Section 304 of the Clean Air Act

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of Proposed Rule.

SUMMARY: This document proposes changes to the procedures, codified at 40 CFR part 54, that currently govern the service of notice for citizen suits brought under section 304 of the Clean Air Act ("CAA" or "the Act"), as amended by the CAA Amendments of 1990. Section 304 authorizes citizens to commence certain suits on their own behalf, including suits against an alleged violator of an emission standard or limitation (or order respecting such standard or limitation), or against the Administrator for an alleged failure to perform a nondiscretionary duty or act, or against the Administrator for agency action alleged to be unreasonably delayed. Sections 304(a) and (b) require that citizens give prior notice to various specified entities as a prerequisite for filing these suits.

The Environmental Protection Agency ("EPA" or "the Agency") is proposing this revised rule in order to: Reflect changes made to Section 304 in the 1990 CAA Amendments; clarify, for each type of citizen action requiring notice, the precise entities that must be served notice, and the method, contents, and timing of such notice; and conform CAA notice practice more closely to the practice under other, more recent federal environmental citizen suit notice regulations pursuant to which the majority of citizen suits have been brought to date.

DATES: Written comments on the proposed rule must be received on or before April 12, 1993.

ADDRESSES: Comments should be submitted (in duplicate if possible) to Air Docket (LE-131), Public Docket No. A-92-63, U.S. Environmental Protection Agency, room M-1511, 1st Floor, Waterside Mall, 401 M Street SW., Washington, DC 20460. The docket is available for public inspection and copying between 8:30 a.m. and 12 noon, and between 1:30 and 3 p.m., Monday through Friday, at EPA's Air Docket, which is located in Room M-1500, 1st floor, Waterside Mall, 401 M Street SW., Washington, DC, 20460. As provided by 40 CFR part 2, a reasonable fee may be charged for photocopying docket materials.

FOR FURTHER INFORMATION CONTACT: Clara Poffenberger, Office of Air and Radiation, Stationary Source Compliance Division (EN-341W), United States Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; telephone (703) 308-8709 or Steven J. Viggiani, Office of Enforcement, Air Enforcement Division (LE-134A), United States Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; telephone (202) 260-2842.

SUPPLEMENTARY INFORMATION: This proposed rule would replace 40 CFR part 54, promulgated by EPA in 1971. Until this rulemaking is final, the current part 54 will continue to govern the timing, manner, contents and recipients of notice for CAA citizen suits.

I. Statutory Requirements

Section 304(a) of the CAA, as amended, authorizes any person to commence a civil action on his own behalf, as follows: (1) Against any person (including the United States, and any other governmental instrumentality or agency to the extent permitted by the Eleventh Amendment to the Constitution) who is alleged to be in violation of (A) an emission standard or limitation as defined by subsection 304(f) of the Act, or (B) an order issued by the Administrator or a State with respect to such a standard or limitation (moreover, after November 15, 1992, an action may be brought against any person who is alleged to have violated such standard or limitation, or order respecting such standard or limitation, if there is evidence that the alleged violation has been repeated); (2) against the Administrator where there is alleged a failure to perform any act or duty under the Act which is not discretionary for the Administrator; (3) against the Administrator where there is alleged that an Agency action has been unreasonably delayed; or (4) against any person who proposes to construct or constructs any new or modified major emitting facility without a permit required under Part C or Part D of Title I of the Act (relating to significant deterioration of air quality or to nonattainment, respectively) or who is alleged to be in violation of any condition of such permit (moreover, after November 15, 1992, an action may be brought against any person who is alleged to have violated any condition of such permit, if there is evidence that the alleged violation has been repeated).

Subsections 304(a), (b)(1)(A) and (b)(2) require that prior notice must be given to certain entities before a citizen can commence a civil suit against an alleged violator of an emission standard or limitation (or order respecting such standard or limitation), or against the Administrator for an alleged failure to perform a nondiscretionary act or for Agency action allegedly unreasonably delayed. The purpose of this proposed rule is to prescribe procedures governing these various notice requirements.

EPA proposes this rule pursuant to sections 301 and 304 of the CAA, 42 U.S.C. 7601 and 7604. Section 304(b) of the CAA specifically authorizes the Administrator to promulgate these regulations.

II. The Proposal

A. Introduction

The proposed rule prescribes the notice requirements applicable to citizen suits brought under section 304 of the CAA, 42 U.S.C. 7604, as amended by the CAA Amendments of 1990. Section 304 requires that citizen plaintiffs give prior notice to various entities as a prerequisite to filing most types of citizen actions under section 304. The proposed rule describes who must be served with notice, the manner of service (either personal service or certified mail), the contents of the notice, and the timing of the notice. In accordance with the 1990 CAA Amendments, the rule also requires that if a civil action is filed under section 304, the citizen plaintiff must serve a copy of the complaint on the

Administrator of EPA ("Administrator") and on the Attorney General of the United States. In addition, the proposal sets forth the requirements for administrative petitions that are a prerequisite to unreasonable delay actions.

Through this proposed rule, EPA not only implements changes in citizen notice practice made by the 1990 CAA Amendments, but also takes the opportunity to update 40 CFR part 54 by clarifying the notice requirements for the various types of citizen suits and by conforming CAA citizen notice practice more closely to the practice under other, more recent EPA citizen suit notice regulations, most notably the Clean Water Act (CWA) notice regulation,[1] pursuant to which most federal environmental citizen suits for civil penalties have been brought to date.

B Suits Against the Administrator for Agency Action Unreasonably Delayed

Prior to the 1990 Amendments, section 304 specifically enumerated three types of citizen suits: First, suits against any person alleged to have violated an emission standard or limitation, or order respecting such standard or limitation (section 304(a)(1)); second, suits against the Administrator for an alleged failure to perform a nondiscretionary duty or act (section 304(a)(2)); and third, suits against persons who construct or propose to construct new or modified major emitting facilities allegedly without certain required permits, or who are in alleged violation of their permits (section 304(a)(3)). With certain exceptions, section 304(b) required that potential citizen plaintiffs give sixty (60) days notice to various different entities before commencing the first two types of suits listed above.

Pursuant to the 1990 CAA Amendments, section 304(a) now specifically enumerates another type of citizen suit against the Administrator: A suit alleging that an Agency action has been unreasonably delayed. Accordingly, the proposed rule revises 40 CFR part 54 to include notice requirements for these unreasonable delay suits.

Under amended section 304(a), a person must serve notice on the Agency at least 180 days before filing a citizen suit alleging unreasonable delay in Agency action. A necessary prerequisite to any citizen suit against the Administrator under section 304(a) is an underlying duty to act. Absent such a duty, EPA is not bound to act at all, and thus there can be no failure to perform a nondiscretionary duty or unlawful delay.

The EPA's duties to act under the CAA may be divided into nondiscretionary duties and discretionary duties. In this proposed rule, EPA has tailored the requirements for notices of intent to sue to the characteristics of the corresponding underlying duty to act in the first instance. In cases involving an alleged failure to perform a nondiscretionary duty, the CAA has already specified both the duty in question and the date by which it must be performed. In such cases the proposed rule, in language identical to the current rule at 40 CFR 54.3(a), requires that the notice of intent merely refer back to the statutory provisions in question.

By definition, with respect to discretionary duties the CAA does not specify a clear-cut duty that must be performed by a date certain. Consequently, this proposal provides that a person must first petition the Administrator and give the Agency an opportunity to respond. If no dispositive action is forthcoming after a reasonable time has passed, that person may then file a 180-day notice alleging unreasonable delay. In a subsequent citizen suit based on this notice, the suit will be limited by its nature to addressing agency action or inaction on plaintiff's original petition.

EPA believes that a valid unreasonable delay claim must be based on a discretionary duty and does not arise unless a person first files a petition with the Administrator. This reasoning flows from the logic and structure of both the Clean Air Act and the Administrative Procedure Act (APA). See 5 U.S.C. 553(e) (under the APA, interested persons have the right to petition for the issuance, amendment, or repeal of a rule); 5 U.S.C. 555(b) (under the APA, an agency must proceed to conclude a matter presented to it within a reasonable time). Most major categories of EPA rulemaking are, by statute, exempt from the APA. See CAA section 307(d)(1). However, the APA still applies to other rulemakings and to adjudications, and in general provides a framework for administrative procedures that EPA often follows even in exempted rulemakings except where its terms conflict with applicable provisions of CAA section 307(d).

In keeping with EPA's view of the underlying legal principles, this proposal effectively calls for the filing of an administrative petition as a prerequisite to a proper 180-day notice. Accordingly, the proposed rule provides with respect to these classes of claims that the 180-day notice must be accompanied by a copy of the previously filed petition to the Administrator requesting Agency action.

This requirement is designed to ensure that the Agency is presented with a clear request for relief, along with materials supporting such a request, before EPA can be charged with unreasonable delay. This will ensure that EPA is given a clear opportunity to formally consider all such requests to act, and will avoid confusion concerning whether EPA was ever requested to take a particular action, and what information was provided in support of such a request. This should expedite Agency action on such requests, and should help to establish a clear record for purposes of judicial review. The requirement to file an administrative petition is implicit in the Agency's view that unreasonable delay claims are based on a discretionary duty to act. It is also consistent with well-recognized principles of exhaustion of administrative remedies, and the case law concerning judicial review under section 307(b) of the CAA. See *Oljato Chapter of Navajo Tribe* v. *Train*, 515 F.2d 654, 665–6 (D.C. Cir. 1975). EPA anticipates that in many circumstances the written request for agency action could both perfect a discretionary duty to act, and satisfy this proposed requirement regarding the filing of an administrative petition.

C. Entities To Be Served

The existing CAA citizen suit notice rule, promulgated in 1971, sets out the manner in which notice is to be served on various entities but, unlike more recent EPA citizen notice rules, does not identify the specific entities which must be served notice in the different types of citizen suits. The proposed rule, in § 54.2, identifies the recipients of notice, and their manner of service, in each type of citizen suit under section 304 for which notice is required. At several points, proposed § 54.2 conforms CAA citizen notice practice more closely to that of more recent citizen notice regulations promulgated under other federal environmental statutes such as the Clean Water Act (CWA) and the Resource Conservation and Recovery Act (RCRA).[2] For example, in instances where notice must be served on a State, the proposed § 54.2(a)(2) requires that notice be served on the chief administrative officer of the State's air

[1] The CWA citizen notice regulations, 40 CFR part 135 subpart A, prescribe procedures governing notice under CWA section 505(b) (33 U.S.C. 1365).

[2] The RCRA citizen notice regulations, 40 CFR part 254, prescribe procedures governing notice under Section 7002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6972).

pollution control agency rather than on an "authorized representative" of such agency (the current rule's language), and eliminates the requirement that the State Governor also be served. Moreover, where the alleged violator is a State or local governmental agency, proposed § 54.2(a)(1)(ii) requires that notice also be served on the head of that agency.

The requirements in citizen notice regulations promulgated subsequent to the CAA's notice regulation, particularly those found in the Clean Water Act and RCRA regulations, have served as the procedural framework for the majority of citizen suits brought to date against alleged source violators and consequently are quite familiar to citizen litigants. By mirroring these regulations, the three proposed amendments described above (and other similar conforming amendments such as certified mail service, described immediately below) are intended to make CAA citizen notice practice more straightforward for citizens and for EPA.

D. Timing and Manner of Service

Regarding timing and manner of service of notice, the proposed rule in § 54.4(d) requires that all notice must be served by either personal service or by certified mail, return receipt requested. The date of any such mail service will be deemed the date on the return receipt card. In contrast, § 54.2(d) of the existing rule provides that notice served by mail shall be deemed given on the postmark date. Proposed § 54.4(d) also provides that where notice must be served on more than one entity, the date from which the statutory notice period is deemed to run will be the date of receipt for the last entity served. In contrast, the existing rule does not specify a date of service for this situation.

Finally, for the convenience of practitioners, the proposed rule provides a list of addresses that will be used frequently in providing notice of citizen suits. By providing the addresses, this proposal contributes to efficiency within EPA because notices may be more consistently sent to the appropriate persons within EPA. Note, however, that these addresses are subject to change. It is the responsibility of the parties to verify these addresses before using them for service.

IV. Administrative Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a regulatory impact analysis. This rulemaking would not result in any of the adverse economic effects set forth in section 1 of the Order as grounds for finding a regulation to be a "major rule." It will not have an annual effect on the economy of $100 million or more, nor will it result in a major increase in costs or prices. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprise in domestic or export markets. Therefore, I have determined that this proposal does not constitute a "major rule", and accordingly no Regulatory Impact Analysis has been prepared. This proposed rule was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

B. Regulatory Flexibility Act Compliance

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this proposed rule, if promulgated, will not have an economic impact on small entities because no additional costs will be incurred.

C. Reporting and Recordkeeping Requirements

Since this proposed rule does not create any new information requirements or contain any new information collection activities, no clearance is necessary from the Office of Management and Budget under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et. seq.*

List of Subjects in 40 CFR Part 54

Administrative practice and procedure, Air pollution control.

Dated: January 14, 1993.

William K. Reilly,

Administrator.

For the reasons set out in the preamble, 40 CFR part 54 is proposed to be revised as follows:

PART 54—PRIOR NOTICE OF CITIZEN SUITS

Sec.

Authority: 42 U.S.C. 7601 and 7604.

§ 54.1 Purpose.

Section 304(a) of the Clean Air Act ("CAA" or "the Act"), 42 U.S.C. 7604(a), as amended by the CAA Amendments of 1990, Public Law No. 101–549, authorizes citizens to commence certain suits on their own behalf, including suits against an alleged violator of an emission standard or limitation (or order respecting such standard or limitation), or against the Administrator for an alleged failure to perform a nondiscretionary duty or act, or against the Administrator for agency action alleged to be unreasonably delayed. Sections 304 (a) and (b) require that citizens give prior notice to various specified entities as a prerequisite for filing these suits. This part prescribes the procedures governing these notice requirements.

§ 54.2 Recipients and manner of service.

(a) *Violation of emission standard or limitation under the Act, or order issued by the Administrator or a State with respect to such a standard or limitation.* (1) Notice of intent to file suit under subsection 304(a)(1) of the Act shall be served by personal service or by certified mail, return receipt requested, upon the alleged violator of any emission standard or limitation (or order respecting such standard or limitation) in the following manner:

(i) If the alleged violator is an individual or corporation, notice shall be served upon the owner or managing agent of the building, plant, vessel, installation, facility, site, operation, or activity alleged to be in violation. If the alleged violator is a corporation, a copy of the notice shall also be served by personal service or by certified mail, return receipt requested, upon the registered agent, if any, of such corporation in the State in which the violation is alleged to have occurred.

(ii) If the alleged violator is a State or local governmental agency, notice shall be served by personal service or by certified mail, return receipt requested, upon the head of such agency.

(iii) If the alleged violator is a Federal agency, notice shall be served by personal service or by certified mail, return receipt requested, upon the head of such agency. (2) A copy of the notice provided in § 54.2(a)(1) shall also be served by personal service or by certified mail, return receipt requested, upon the chief administrative officer of the air pollution control agency for the State in which the violation is alleged to have occurred, the Administrator of the Environmental Protection Agency, and the Regional Administrator of the Environmental Protection Agency for the Region in which the violation is alleged to have occurred.

(b) *Failure to perform a nondiscretionary act or duty.* Notice of intent to file suit under subsection 304(a)(2) for an alleged failure of the

Administrator to perform a nondiscretionary act or duty under the Act shall be served by personal service, or by certified mail, return receipt requested, upon the Administrator of the Environmental Protection Agency.

(c) *Agency action unreasonably delayed.* Service of notice of intent to file suit under subsection 304(a) for an Agency action that allegedly has been unreasonably delayed shall be accomplished in the manner described in § 54.2(b).

§ 54.3 Contents of notice.

(a) *Violation of emission standard or limitation under the Act, or order issued by the Administrator or a State with respect to such emission standard or limitation.* Notice regarding an alleged violation of an emission standard or limitation, or order respecting such standard or limitation, shall include:

(1) Sufficient information to allow the recipient to identify the specific emission standard or limitation, or order respecting such standard or limitation, which has allegedly been violated;

(2) The activity alleged to constitute a violation;

(3) The location of the alleged violation, including the name and address of the building, plant, vessel, installation, facility, site, operation, or activity allegedly in violation;

(4) the person or persons responsible for the alleged violation, if known;

(5) The date or dates of the alleged violation; and

(6) The full name, address, and telephone number of the person giving notice.

(b) *Failure to perform a nondiscretionary act or duty.* Notice regarding an alleged failure of the Administrator to perform an act or duty under the Act which is not discretionary shall:

(1) Identify the provisions of the Act which require such act or create such duty;

(2) Describe with reasonable specificity the action not taken by the Administrator that is claimed to constitute a failure to perform the nondiscretionary act or duty;

(3) Specify the date by which the Administrator was required to have performed such act or duty;

(4) Identify the name and title of the officers failing to perform the nondiscretionary act or duty, if known; and

(5) State the full name, address, and telephone number of the person giving notice.

(c) *Agency Action Unreasonably Delayed.* Notice regarding Agency action that allegedly has been unreasonably delayed shall: (1) Identify the Agency action that is alleged to have been unreasonably delayed;

(2) Identify the provisions of the Act under which the Agency allegedly should take such action;

(3) Describe with reasonable specificity the unreasonable delay;

(4) Attach a copy of the petition by which the person giving notice has previously requested the Agency to act;

(5) Identify the name and title of Agency officers creating the alleged unreasonable delay, if known; and

(6) State the full name, address and telephone number of the person giving notice.

(d) Identification of counsel. All notices shall state the name, address, and telephone number of the legal counsel, if any, representing the person giving notice.

§ 54.4 Timing of notice.

(a) *Violation of an emission standard or limitation, or order issued by the Administrator or a State with respect to such emission standard or limitation.* No action may be commenced under subsection 304(a)(1) of the Act prior to sixty (60) days after the plaintiff has served notice of the violation as specified in this Part.

(b) *Failure to perform a nondiscretionary act or duty.* No action may be commenced under section 304(a)(2) of the Act prior to sixty (60) days after the plaintiff has served notice of the failure to perform as specified in this part.

(c) *Exception.* In the case of an action under section 304(a)(1) or (a)(2) of the Act respecting a violation of section 112(i)(3)(A) or (f)(4) of the Act, or an order issued by the Administrator pursuant to section 113(a) of the Act, such action may be brought immediately after plaintiff has served notice as specified in this part.

(d) *Agency Action Unreasonably Delayed.* No action under section 304(a) alleging that an Agency action has been unreasonably delayed may be commenced prior to 180 days after the plaintiff has served notice as specified in this part. Such notice shall not be valid unless the person giving notice has previously submitted a petition to the Administrator requesting such Agency action, along with supporting materials or references to supporting materials.

(e) *Date of service.* The date of service for a notice or copy of notice required under this Part, whether served personally or by certified mail, shall be the date of receipt. If service was accomplished by certified mail, the date of receipt shall be deemed the date noted on the return receipt card. If notice or copy of notice is required to be served on more than one entity, then the date of service shall be the date of receipt for the last entity to receive notice.

§ 54.5 Copy of complaint.

At the time of filing any action under section 304, the plaintiff shall serve a copy of the complaint on the Attorney General of the United States and on the Administrator of the Environmental Protection Agency.

§ 54.6 Addresses.

The following addresses are provided for the convenience of the public. They are current as of [Insert Date of Publication of Final Rule], but are subject to change and should be verified before being used for service.

Administrator, U.S. Environmental Protection Agency, 401 M Street, SW. (A–100), Washington, DC 20460

Attorney General, U.S. Department of Justice, Constitution Avenue & Tenth Street, NW., Washington, DC 20530

Regional Administrator, Region I, U.S. Environmental Protection Agency, John F. Kennedy Building, Room 2203, Boston, MA 02203

Regional Administrator, Region II, U.S. Environmental Protection Agency, 26 Federal Plaza, Room 930, New York, NY 10278

Regional Administrator, Region III, U.S. Environmental Protection Agency, 841 Chestnut Street, Philadelphia, PA 19107

Regional Administrator, Region IV, U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, GA 30365

Regional Administrator, Region V, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, IL 60604

Regional Administrator, Region VI, U.S. Environmental Protection Agency, 1445 Ross Avenue, 12th Floor, Suite 1200, Dallas, TX 75202–2733

Regional Administrator, Region VII, U.S. Environmental Protection Agency, 726 Minnesota Avenue, Kansas City, KS 66101

Regional Administrator, Region VIII, U.S. Environmental Protection Agency, 999 18th Street, Suite 500, Denver, CO 80202–2405

Regional Administrator, Region IX, U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105

Regional Administrator, Region X, U.S. Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101.

[FR Doc. 93–3064 Filed 2–9–93; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 93-9, RM-8152]

Radio Broadcasting Services; Silver City, NM

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Avila Beach, Ltd., seeking the substitution of Channel 225C2 for Channel 233A at Silver City, New Mexico, and the modification of Station KSCQ's license to specify operation on the higher class channel. In accordance with § 1.420(g) of the Commission's Rules, Station KSCQ's license may not be modified to specify non-adjacent Channel 225C2 if a competing expression of interest is received unless an additional equivalent class channel is available for allotment. Therefore, petitioner suggests that Channel 281C2 be allotted to Silver City to accommodate any additional expression of interest which may be received. Channel 225C2 can be allotted to Silver City in compliance with the Commission's minimum distance separation requirements at Station KSCQ's licensed transmitter site, at coordinates North Latitude 32-50-40 and West Longitude 108-14-18. Channel 281C2 can be allotted to Silver City without the imposition of a site restriction, at coordinates North Latitude 32-46-23 and West Longitude 108-16-48. Mexican concurrence in these allotments is required since Silver City is located within 320 kilometers (199 miles) of the U.S.-Mexican border.

EFFECTIVE DATES: Comments must be filed on or before March 29, 1993, and reply comments on or before April 13, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: J. Dominic Monahan, Esq., Dow, Lohnes & Albertson, 1255 23rd Street, NW., suite 500, Washington, DC 20037 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rulemaking, MM Docket No. 93-9, adopted January 21, 1993, and released February 4, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rulemaking is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93-3127 Filed 2-9-93; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 93-10, RM-8150]

Radio Broadcasting Services; Paris, TN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Benton-Weatherford Broadcasting, Inc. of Tennessee, permittee of Station WMUF-FM, Channel 231A, Paris, Tennessee, proposing the substitution of Channel 231C3 for Channel 231A at Paris and modification of Station WMUF-FM's construction permit to specify operation on the higher powered channel. Channel 231C3 can be allotted to Paris in compliance with the Commission's minimum distance separation requirements with a site restriction of 17.2 kilometers (10.7 miles) northeast to accommodate Benton-Weatherford's desired site. The coordinates for Channel 231C3 are 36-22-40 and 88-09-20. This proposal is contingent upon Station WIST-FM at Lobelville, Tennessee, receiving a license to operate on Channel 233C2 in accordance with its outstanding construction permit (BMPH-920325IC). In accordance with § 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest for use of Channel 231C3 at Paris or require petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before March 29, 1993, and reply comments on or before April 13, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Gary D. Benton, Benton-Weatherford Broadcasting Inc. of Tennessee, P.O. Box 1239, Paris, Tennessee 38242 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Pamela Bluementhal, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93-10, adopted January 21, 1993, and released February 4, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93-3098 Filed 2-9-93; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 93-11; RM-8164]

Radio Broadcasting Services; Spokane, WA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Melinda Boucher Read seeking the substitution of Channel 245C3 for Channel 245A at Spokane, Washington, and the modification of her construction permit for Station KSPO(FM) accordingly. Channel 245C3 can be allotted to Spokane in compliance with the Commission's minimum distance separation requirements for all domestic allotments at petitioner's specified site. The coordinates for Channel 245C3 at Spokane are North Latitude 47-41-39 and West Longitude 117-20-03. Since Spokane is located within 320 kilometers (200 miles) of the U.S.-Canadian border and the proposed allotment is short-spaced to a vacant Canadian allotment, we have sought Canadian concurrence in the allotment of Channel 245C3 at Spokane as a specially negotiated allotment. See SUPPLEMENTARY INFORMATION, infra.

DATES: Comments must be filed on or before March 29, 1993, and reply comments on or before April 13, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Ellen S. Mandell, Pepper & Corazzini, 1776 K Street, NW., suite 200, Washington, DC 20006 (Counsel for Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93-11, adopted January 21, 1993, and released February 4, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

In accordance with § 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest in the use of Channel 245C3 at Spokane or require the petitioner to demonstrate the availability of an additional equivalent class channel.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93-3099 Filed 2-9-93; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 91-318, RM-7853, RM-7889, RM-7890]

Radio Broadcasting Services; Three Lakes, Newbold, Nakoosa, and Port Edwards, WI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document is a Request for Supplemental Information from Pacer Radio of Oneida regarding its counterproposal to allot an FM channel to Newbold, Wisconsin. Pacer Radio of Oneida is instructed to provide information that demonstrates that Newbold has recognizable factors to qualify it as a community for allotment purposes. See 56 FR 57608, November 13, 1991. Pacer Radio of Oneida is requested to provide information to show that Newbold has the social, economic, or cultural indicia to qualify it as a community for allotment purposes. No additional counterproposals may be submitted since an opportunity for filing counterproposals has been provided.

DATES: Comments must be filed on or before March 29, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Lyle R. Evans, Pacer Radio of Oneida, 1296 Marian Lane, Green Bay, Wisconsin 54304; Susan Rester Miles, Hessian, McKasy & Soderberg Professional Association, 4700 IDS Center, Minneapolis, Minnesota 55402 (counsel to Three Lakes Broadcasting); and Julie Ann Albrecht, Berry Radio Company, 725 South Irwin Avenue, Green Bay, Wisconsin 54301.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Request for Supplemental Information, MM Docket No. 91-318, adopted January 19, 1993, and released February 4, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037. Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93-3100 Filed 2-9-93; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 73 and 76

[MM Docket No. 93-8, FCC 93-35]

Television Broadcasting; Cable Television; Cable Carriage of Home Shopping Broadcast Stations

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: This Notice of Proposed Rulemaking seeks comment on the adoption of implementing regulations relating to stations that are predominantly utilized for the transmission of sales presentations or program length commercials ("home shopping stations") and issues regarding the carriage of such stations on cable systems. The Notice seeks information on how to define home shopping stations, how to determine whether such stations are serving the public interest, and what the Commission should do if it finds that they are not serving the public interest. The Notice responds to the enactment of the Cable Television Consumer Protection and Competition Act of 1992 by Congress.

DATES: Comments are due by March 29, 1993, and reply comments are due by April 13, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Paul R. Gordon, Mass Media Bureau, Video Services Division, (202) 632–6357.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rulemaking in MM Docket No. 93–8, adopted January 14, 1993, and released January 28, 1993.

The complete text of this Notice of Proposed Rulemaking is available for inspection and copying during normal business hours in the FCC Reference Center, room 239, at the Federal Communications Commission, 1919 M Street, NW., Washington, DC, 20554, and may also be purchased from the Commission's copy contractor, International Transcription Service, at (202) 857–3800, 1919 M Street, NW., Washington, DC, 20554.

Synopsis of Notice of Proposed Rulemaking

1. This Notice of Proposed Rulemaking seeks comment on implementing section 4(g) of the Cable Television Consumer Protection and Competition Act of 1992 ("Cable Act of 1992" or "1992 Cable Act"). Specifically, we seek comment on the adoption of implementing regulations relating to stations that are predominantly utilized for the transmission of sales presentations or program length commercials ("home shopping stations") and issues regarding the carriage of such stations on cable systems.

2. Section 4 of the Cable Act of 1992 added a new section 614(g) to the Communications Act of 1934, as amended, 47 U.S.C. 533(g), which requires the Commission to determine, regardless of prior conclusions, whether home shopping stations are serving the public interest, convenience, and necessity. The 1992 Cable Act requires that if the Commission finds that these stations do serve the public interest, then it shall qualify them as local commercial television stations for the purposes of cable carriage. If the Commission finds that one or more such stations do not serve the public interest, then the Act requires that the Commission provide them with reasonable time to provide different programming.

3. The initial issue that we address and on which we seek comment is how to identify within the intent of Congress those stations that are predominantly utilized for the transmission of sales presentations or program length commercials. Among the possible definitions are stations that devote more than a specific number of hours per day, eight hours between 6 a.m. and midnight, or more than 50% of their programming week to a home shopping format.

4. The Notice next asks how to determine whether home shopping stations are serving the public interest. The 1992 Cable Act directs us to consider three specific factors: (1) The viewing of home shopping stations by the public; (2) the level of competing demands for the spectrum allocated to such stations; and (3) the role of such stations in providing competition to nonbroadcast services offering similar programming. In addition to seeking comment on other matters, the Notice addresses each of these factors in turn.

5. First, we seek comment on the viewing of home shopping broadcast stations. Because we have never before used a station's ratings as a factor to determine whether the licensee has met its public interest obligations, we request comments addressing the means and standards of weighing ratings to ascertain whether the public interest is being served. We note that basing the choice of formats on ratings, which reflect the popularity of a program or format, could implicate difficult First Amendment concerns. Thus, we seek comment on the extent of the First Amendment and other public interest concerns raised by using viewership information, as well as approaches to that problem that may minimize those concerns.

6. Second, we seek comment on the level of competing demands for the spectrum allocated to home shopping stations. In this regard, we seek comment on whether the statute directs us to consider the demands only of other television broadcasters or, more generally, those of applicants, permittees, and licensees in other services (such as land mobile and advanced television). We therefore ask commenters to discuss how we can use the competition for scarce spectrum to determine the utility of home shopping stations.

7. Third, we seek comment on the role of home shopping stations in providing competition to nonbroadcast services offering similar programming. We seek comment on two aspects of the competitive relationships. First, We ask whether a broadcast licensee's various public interest obligations create a commercial disadvantage in comparison with nonbroadcast home shopping program providers. If so, we seek comment on whether a conclusion that broadcast home shopping stations are operating in the public interest and thus entitling them to local cable carriage is an appropriate response to any competitive disparity that may exist.

8. The second aspect of the competitive relationship that we address engages the question of the public interest in providing cable subscribers with home shopping competitive options. The Notice states that a cable operator may have either an ownership or a contractual interest in a nonbroadcast provider of home shopping programming. A contractual interest is created when a nonbroadcast home shopping programmer has its presentation carried by a local cable company and pays the cable operator a percentage of those sales that originate from certain addresses or zip codes. Under such an agreement, the cable operator has a direct financial stake in the success of the nonbroadcast home shopping programmer, and vertical integration is created by contract. We seek comment on whether cable operators with either ownership or contractual interests in nonbroadcast providers of home shopping programming have elected not to carry home shopping broadcast stations or have treated such stations less favorably than the nonbroadcast home shopping services with which they are affiliated. If so, we also seek comment on whether these decisions have resulted in stifling competition and reducing the viewing choices of the public. Moreover, we ask commenters how we can best promote programming diversity and market competition in the context of the carriage of home shopping stations, requesting commenters to address whether we should distinguish between ownership and contractual relationships in our analysis.

9. Having discussed the three factors mandated by the 1992 Cable Act, we

state our tentative view that our decision should broadly apply to all home shopping stations. However, section 4(g)(2) of the 1992 Cable Act suggests the possibility that "one or more" home shopping stations may not be found to be operating in the public interest. This indicates that, in certain circumstances, individual judgments as to specific stations may be warranted, rather than a general rulemaking judgment as to this class of stations as a whole. Thus, for example, the issue of alternative demands on the spectrum or the existence of alternative, nonbroadcast suppliers of home shopping programming may vary according to the region or market involved. We seek comment on whether such individualized reviews are contemplated or mandated by the Act, and by what process they might be reached, if warranted.

10. The Notice states that the 1992 Cable Act seems to contemplate two possible public interest determinations: (1) Home shopping stations are found to be operating in the public interest, and they become eligible for mandatory cable carriage; or (2) they are found not to operate in the public interest, and their operations are terminated or modified. A third possibility might be that such stations or some subset of them, although operating in the public interest in such a manner as to warrant continued authorization and renewal, would not warrant mandatory cable carriage. It appears that the language of the 1992 Cable Act may preclude such a conclusion. Accordingly, we seek comment on whether this latter possibility is permissible under the 1992 Cable Act and, if so, what criteria we might use to distinguish those home shopping stations entitled to carriage.

11. Finally, the Notice recognizes the need for transitional rules, depending on the public interest determination that we make. If we afford home shopping stations carriage rights, we will have to ensure that the process whereby those rights are activated are coordinated with the rules adopted in the general mandatory carriage and retransmission consent proceeding now in progress. Should we find that all or some home shopping broadcast stations do not serve the public interest, the 1992 Cable Act directs the Commission to allow such stations a reasonable period within which to provide different programming. We tentatively find that 18 months from the adoption date of such a Report and Order would be reasonable, and seek comment on this proposal

Administrative Matters

Initial Regulatory Flexibility Analysis Statement

Pursuant to the Regulatory Flexibility Act of 1980, the Commission finds:

12. *Reason for the Action:* The purpose of this Notice is to establish rules and regulations in accordance with the Cable Television Consumer Protection and Competition Act of 1992 relating to the development of carriage requirements for home shopping stations.

13. *Objective of this Action:* The Commission's goal is to provide notice and opportunity to comment to members of the public regarding the carriage of local home shopping broadcast stations by cable system operators, as required by section 4(g) of the 1992 Act.

14. *Legal Basis:* Authority for the action proposed in this Notice may be found in sections 4, 303, and 614(g) of the Communications Act of 1934, as amended, 47 U.S.C. 154, 303, and 533(g).

15. *Description, Potential Impact, and Number of Small Entities Involved:* Approximately 11,000 existing cable systems of all sizes and approximately 100 home shopping broadcast stations may be affected by the proposal contained in this Notice.

16. *Reporting, Recordkeeping, and Other Compliance Requirements Inherent in the Proposed Rule:* None.

17. *Federal Rules which Overlap, Duplicate, or Conflict with the Proposed Rule:* None.

18. *Any Significant Alternative Minimizing Impact on Small Entities and Consistent with the Stated Objective of the Action:* The purpose of this Notice is to seek comment on issues, including alternatives that would minimize the impact on small entities.

19. As required by section 603 of the Regulatory Flexibility Act, the Commission has prepared an initial regulatory flexibility analysis (IRFA) of the expected impact of these proposed policies and rules on small entities. The IRFA is set forth in the appendix. Written public comments are requested on the IRFA These comments must be filed in accordance with the same deadlines as comments on the other sections of this Notice of Proposed Rulemaking. However, such comments must have a separate and distinct heading designating them as responses to the regulatory flexibility analysis. The Secretary shall cause a copy of this Notice of Proposed Rulemaking and regulatory flexibility analysis to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act, Public Law 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

Ex Parte

20. This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's Rules. See generally 47 CFR 1.1202, 1.1203, and 1.1206(a).

Comments

21. Pursuant to applicable procedures set forth in sections 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before March 29, 1993, and reply comments on or before April 13, 1993. To file formally in this proceeding, you must file an original and four copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original plus nine copies. You should send comments and reply comments to the Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, room 239, at the Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

Ordering Clauses

22. Accordingly, *it is ordered* that pursuant to sections 4 and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154 and 303, this Notice of Proposed Rulemaking is adopted.

List of Subjects

47 CFR Part 73

Television broadcasting.

47 CFR Part 76

Cable television.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc 93–3130 Filed 2–9–93; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 58, No. 26
Wednesday, February 10, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Adjudication and Committee on Administration; Meetings

Pursuant to the Federal Advisory Committee Act (Pub. L. No. 92–463), notice is hereby given of three meetings of the Committee on Regulation of the Administrative Conference of the United States. Attendance at the committee meetings is open to the public, but limited to the space available. Persons wishing to attend should notify the contact person at least one day in advance of the meeting. The committee chairman may permit members of the public to present oral statements at meetings. Any member of the public may file a written statement with a committee before, during, or after a meeting. Minutes of the meetings will be available on request to the contact person. The contact person's mailing address is: Administrative Conference of the United States, 2120 L Street, NW., suite 500, Washington, DC 20037.

Committee on Adjudication

Date: Friday, March, 5, 1993.
Time: 1:30 p.m.
Location: Administrative Conference of the United States, 2120 L Street, NW., suite 500, Washington, DC 20037.
Agenda: The Committee will discuss Professor William Funk's report on the use of informal adjudicatory procedure in civil money penalty proceedings, with a focus on the EPA.
Contact: Nancy G. Miller, 202–254–7020.

Committee on Administration

First Meeting

Date: Friday, February 26, 1993.
Time: 12:30 p.m.
Location: Administrative Conference of the United States, 2120 L Street, NW., suite 500, Washington, DC 20037.
Agenda: The Committee will discuss Professor Thomas McGarity's report on peer review in award Federal grants in the arts and sciences.
Contact: Charles Pou, Jr., 202–254–7020.

Second Meeting

Date: Friday, March 12, 1993.
Time: 10 a.m.
Location: Administrative Conference of the United States, 2120 L Street, NW., suite 500, Washington, DC 20037.
Agenda: The Committee will continue to discuss Professor Thomas McGarity's report on peer review in awarding Federal grants in the arts and sciences.
Contact: Charles Pou, Jr., 202–254–7020.

Dated: February 5, 1993.

Michael W. Bowers,

Deputy Research Director.

[FR Doc. 93–3194 Filed 2–9–93; 8:45 am]

BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

February 5, 1993.

The Department of Agriculture has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s); if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) an estimate of the total number of hours needed to provide the information; (8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, room 404–W, Admin. Bldg., Washington, DC 20250, (202) 690–2118.

Revision

• Agricultural Stabilization and Conservation Service.

7 CFR 1421 and 1434—General Regulations Governing Price Support for 1993—1996 Crop Years
CC–64, 156, 601, 614, 638, 665, 666, 666 (Honey), 662, 677, 678, 678–2, 679, 681–1, 685, 686, 687–1, 691, 699, 806, 807, 906, KC–350, UCC–1 & 3
On occasion; Annually
Farms; 2,103,360 responses; 458,127 hours
Alex King (202) 720–9886

• Farmers Home Administration.

7 CFR 1944–N, Housing Preservation Grant Program
Recordkeeping; On occasion; Quarterly
Individuals or households; State or local governments; Businesses or other for-profit; Non-profit institutions; 12,055 responses; 11,614 hours
Jack Holston (202) 720–9736

• National Agricultural Statistics Service.

Milk and Milk Products
Weekly; Monthly; Quarterly; Annually
Farms; Businesses or other for-profit; 167,236 responses; 19,500 hours
Larry Gambrell (202) 720–5778

• National Agricultural Statistics Service.

Eggs, Chickens, and Turkey Survey
Weekly; Monthly; Quarterly; Annually
Farms; Businesses or other for-profit; 37,876 responses; 6,311 hours
Larry Gambrell (202) 720–5778

Extension

• Forest Service.

36 CFR Part 272—Commercial Use of "Woodsy Owl" Symbol
Recordkeeping; Quarterly
Businesses or other for-profit; 40 responses; 60 hours
Doris Nance (202) 205–1785

• Agricultural Marketing Service.

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida—Marketing Order No. 905
Semi-annually; Annually; Once every six years
Farms; Businesses or other for-profit; 580 responses; 84 hours
Gary D. Rasmussen (202) 720–5331

• Agricultural Marketing Service.

7 CFR Part 56, Regulations Governing the Grading of Shell Eggs and U.S. Standards, Grades, and Weight Classes for Shell Eggs
PY–100 and PY–157
On occasion; Monthly; Semi-annually; Annually; Daily
State or local governments; Businesses or other for-profit; Federal agencies or employees; Small businesses or

organizations; 21,486 responses; 3,093 hours
Martin Szekeresh (202) 720–3506

• Agricultural Marketing Service.

Potatoes Grown in Colorado, Marketing Order No. 948
On occasion; Semi-annually; Annually
Farms; Businesses or other for-profit; 154 responses; 25 hours
Bob Matthews (202) 690–0464

New Collection

• Extension Service.

Rural Technology and Cooperative Development Grants Program; Fiscal Year 1993; Request for Proposal(s); Application Guidelines
Semi-annually; Annually
Non-profit institutions; 100 responses; 400 hours
Gene P. Spory (202) 720–6223

Reinstatement

• Farmers Home Administration.

Form FmHA 440–32, Request for Statement of Debts and Collateral
FmHA 440–32
On occasion
Individuals or households; Businesses or other for-profit; Small businesses or organizations; 60,000 responses; 15,000 hours
Jack Holston (202) 720–9736

• Rural Electrification Administration.

Report of Progress of Construction and Engineering Services and Engineer's Monthly Report of Substation Progress
REA Forms 178 and 457
On occasion
Small businesses or organizations; 1,100 responses; 803 hours
Fred Gatchell (202) 720–1398

Larry K. Roberson,
Deputy Department Clearance Officer.
[FR Doc. 93–3158 Filed 2–9–93; 8:45 am]
BILLING CODE 3410–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

New England Fishery Management Council; Mid-Atlantic Fishery Management Council

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of public hearing and scoping process; request for comments.

SUMMARY: The New England Fishery Management Council and the Mid-Atlantic Fishery Management Council (Councils), established by section 302 of the Magnuson Fishery Conservation and Management Act, announce their intention to hold a series of public hearings on management of the goosefish (*Lophius americanus*) resource within the U.S. Exclusive Economic Zone in the North Atlantic. The Councils announce a public process and hearings to determine the scope of issues to be addressed while developing a fishery management plan (FMP) for goosefish. Scoping sessions will be held at the public meetings on the dates and locations listed below.

This notice is to alert the interested public of commencement of the scoping process and to provide for public participation in compliance with environmental documentation requirements.

DATES: Written scoping comments will be accepted by the Councils through March 9, 1993. Testimony may be presented at public hearings, which are scheduled as follows:

February 11, 1993—10 a.m., Holiday Inn at The Crossings, 800 Greenwich Ave., Warwick, RI, Telephone (401) 732–6000.

March 2, 1993—7 p.m., Holiday Inn Center City, 1800 Market St., Philadelphia, PA, Telephone (215) 561–7500.

ADDRESSES: Send written comments and requests for copies of the scoping document to Douglas G. Marshall, Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 01906, Telephone (617) 231–0422, or John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901, (Telephone 302/674–2331).

FOR FURTHER INFORMATION CONTACT: Mr. Douglas G. Marshall, (Telephone 617/231–0422) or Mr. John C. Bryson (Telephone 302/674–2331).

SUPPLEMENTARY INFORMATION:

Background

Until recently, goosefish had a limited market in the United States and were caught largely as bycatch in the groundfish and scallop dredge fisheries. Goosefish have traditionally been landed with the head removed, and only the tails were landed and marketed as "monkfish." The market for goosefish tails and other body parts, however, has improved steadily over the past decade. There is a growing and lucrative export market (primarily in Japan) for goosefish livers. The result has been a rapid increase in the reported landings of the species. Less than 5 million pounds (2.27 million kg) of monkfish (whole fish weight) were landed in 1981. By 1991, landings increased to 26.5 million pounds (12.02 million kg) with an ex-vessel value of $19.2 million.

Fishermen and fish dealers related their concerns about the goosefish fishery to the Councils during 1991 and early 1992. They cited the increasing amount of "small" and "peewee" category tails being landed, the more frequent gear conflicts between goosefish boats and other fishermen, and the expanding directed trawl fishery as problems.

The Councils convened a joint committee to evaluate prospects for managing this fishery. It found that there were sufficient reasons for concern and recommended the Councils develop an FMP. Those reasons included the recent declines in survey indices, the declining size of tails being landed, the potential for shifts in effect due to management restrictions on other species, evidence of an expanding directed fishery, and a rapidly growing market for goosefish tails and livers.

Most lands occur as a result of bycatch from groundfish and scallop fishing. This bycatch accounted for over 80 percent of the catch. Most recently, increases in directed effort helped reduce that bycatch proportion to 70 percent. The remaining 30 percent was the result of directed effort. This increase in directed effort has been observed in the 1990 data for both trawl and scallop dredges. The geographical range of directed effort by fishermen using these two gear types is different, but generally occurs in deeper waters. The directed fishing activity continued during the 1991–92 fishing season, abated during 1992 when prices fell, but has since renewed as price increases resumed.

Landings from all gear types have risen to record high levels. These high levels occurred because of increasing directed fishing effort and increasing fishing effort for groundfish and scallops that occurred throughout the mid to late 1980's.

Purpose and Need for Management

Few data exist to conduct an age or length-based analytical stock assessment of this species. An initial assessment of the goosefish resource has been made by examining fall and spring groundfish survey data. Northern area autumn biomass indices (abundance in weight) indicate a significant decrease since the late 1970s; biomass apparently decreased to less than one-third of the late 1970s level by 1991. Spring indices show a similar pattern. Autumn cruise data show that biomass fell by half from 1984 to 1991. Decreasing biomass

indices concomitant with landings of small fish suggest that the resource is at least fully-exploited and might be over-exploited. The increased targeting of goosefish and displacement of fishing effort from other fisheries into the unregulated goosefish fishery is problematic. Preliminary yield-per-recruit analyses indicate that substantial gains can be realized by increasing the current size of recruitment to age 4 (30.5-cm/12-inch tail length).

Recent U.S. landings of goosefish have increased dramatically in response to an increase in the market value of the species in combination with the decline in abundance of traditional species. The majority of goosefish are taken as bycatch in the Northwest Atlantic groundfish and scallop fisheries, although directed effort is increasing. Directed effort is occurring in both deepwater (100–150 fathoms 182.9–274.3 m) by otter trawls and in shoal waters by gill nets and scallop dredges.

The Councils initially identified several management goals for a goosefish FMP. The size of goosefish being caught by the various fisheries is of concern and management should be developed that improves yield per recruit and allows an opportunity for goosefish to spawn. Another goal is to control the expansion of the directed fishery if the goosefish resource is fully utilized. Rapid expansion of directed fishing for goosefish is expected under various proposed management alternatives for groundfish and scallops. The development of other goals and objectives is expected during future deliberations of the Monkfish Committee and from industry advisors.

Management Plan Options

Goosefish management problems include conservation issues and gear conflicts. Essentially there are three alternatives for managing goosefish under the Council process. These include the development of amendments to existing FMP's, the development of a separate goosefish FMP, and no action.

A. Amendments to Existing FMPs

There are several user groups covered by FMPs utilizing areas that have concentrations of goosefish. As such, a number of amendments would need to be developed to address this issue. The most likely FMP candidates are the groundfish, scallop, lobster, summer flounder, and swordfish FMPs. Three are managed by the New England Council, one by the Mid-Atlantic Council, and one by the Secretary of Commerce. Coordinated implementation will be difficult and might be confounded by other management changes within each of those plans.

On the other hand, goosefish landings primarily occur through bycatch or semi-directed effort in association with other fisheries. About 70 to 80 percent of landings are associated with groundfish or scallop trips. It would be consistent to develop monkfish management through amendments while addressing conservation issues within an existing FMP. Because monkfish are a demersal species, an amendment to the Northeast Multispecies and Atlantic Sea Scallop FMPs would appear to be most appropriate. Amendments to other plans designed to alter gear deployment and use in critical areas could be developed concurrently, but thorough examination and comments on fishery impact, economic changes, and habitat concerns would be required.

B. Goosefish FMP

The development of a new FMP is likely to require significantly more time. The effects of an FMP would need to be analyzed and considered consistent with applicable laws, with the potential for extensive public hearings. Justifying a separate FMP for a species that is primarily caught in association with fisheries directed at other species would be difficult. Developing an FMP that manages only a portion of the stock subject to directed effort in deep waters may not be possible, unless that population is considered to be a separate stock. It is unlikely that determination will be made.

Conversely, a separate FMP would avoid some confounding issues associated with amending existing plans. Plan development would be less encumbered by relationships to other species and additions designed to manage other species. Coordination of implementation of separate amendments for each impacted fishery would not be a problem with a new FMP.

Definition of Overfishing

All Federal FMPs must have a definition of overfishing for each species or stock in the management unit. Most approaches used for other species are problematic for goosefish because of insufficient data and poor industry understanding and acceptance.

There are two basic ways to define overfishing: Methods based on stock abundance ("minimum level of stock biomass") and methods based on threshold mortality rates ("maximum level of fishing mortality"). The minimum stock abundance approach suggests that when a stock falls below a threshold, the risk is unacceptably high that recruitment would be depressed. The threshold mortality rate is based on allowing a sufficient proportion of spawners to survive to the following year.

The only data available to support a definition, based on a minimum stock level, are from fishery-independent surveys. A few state-supported surveys exist, but the most comprehensive are the bottom surveys conducted by NMFS. There are problems because the surveys do not encompass the entire range of the goosefish resource. No samples are taken offshore of the Continental Shelf edge where goosefish are known to occur. These surveys do, however, provide a reasonable estimate of stock abundance for that portion of the population occurring in coastal and shelf areas.

There are sufficient data to develop a definition based on a threshold mortality rate. Several measures of mortality might be appropriate; however, the stock assessments for goosefish do not give estimates of current fishing mortality. Therefore, given the current state of knowledge, this method is probably not practical at this time.

Possible Management Measures

The following measures have been used or contemplated in the management of marine fishery resources in the United States: (1) Minimum fish size (tail size); (2) gear restrictions for directed fisheries; (3) closed seasons; (5) quotas; (6) trip limits; (7) moratorium on vessels; (8) effort restrictions; (9) market based strategies; (10) special management zones; (11) dealer and vessel permits; and (12) operator permits. Another potential alternative is to list goosefish as a regulated species under the Northeast Multispecies FMP subject to some or all of its provisions.

These measures are presented to indicate the range of alternatives and their advantages and disadvantages, and not to advocate one or another. Some may be inappropriate for the management of the U.S. goosefish resource at the present time, but are presented to stimulate public comment.

Scoping Process

All persons affected by or otherwise interested in a program to manage goosefish are invited to participate in determining the scope and significant issues to be analyzed by submitting written comments (see **ADDRESSES**). Scope consists of the range of actions, alternatives, and impacts to be considered. Actions include those

which may be closely related, cumulative or similar. Alternatives include not developing a management plan, developing amendments to existing plans, developing a separate FMP, or other reasonable courses of action. Impacts may be direct, indirect, individual or cumulative. The scoping process also will identify and eliminate from detailed study issues that are not significant. Once a management plan and an Environmental Impact Statement or Environmental Assessment is developed, the Councils intend to hold a second round of public hearings to receive additional comments.

Dated: February 4, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93-3152 Filed 2-5-93; 2:22 pm]

BILLING CODE 3510-22-M

Western Pacific Regional Fishery Management Council; Public Hearings

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of public hearings.

SUMMARY: The Western Pacific Regional Fishery Management Council (Council) will hold public hearings, in conjunction with the State of Hawaii. The Council wishes to hear the public's views on (1) a Federal minimum size for possession of opakapaka, and (2) limiting entry into certain areas of the pelagic handline fishery.

Regarding bottomfish, the Council intends to establish a minimum size for the possession of opakapaka, which is in danger of being overfished in Hawaii. For the discussion, alternatives to the minimum size for possession include closed areas and seasons, bag limits, and a minimum size for sale only, as well as restrictions for other species such as onaga and ulua.

Regarding the handline fishery, there is concern in the fishery conducted around offshore weather buoys and seamounts over the rapid increase in the harvest and the landing of small bigeye tuna. This concern has resulted in a Federal control date and discussions of limited entry.

For the discussion, alternatives to limited entry include minimum sizes and bag limits, as well as the potential impact on other small boat fisheries in the state.

The meeting schedule is as follows:

Oahu—16 Feb. 1993, 6–9 p.m.
Pacific Room, Hawaii, Maritime Center, Pier 7, Honolulu Harbor, Honolulu, HI 96813

Maui—17 Feb. 1993, 6–9 p.m.
Hearing Room, Maui County, Planning Department, 250 High St., Wailuku, HI 96793

Hilo—19 Feb. 1993, 9 a.m.–12 noon
Pavilion 3, Wailoa River, State Park, Hilo, HI 96720

Kona—19 Feb. 1993, 6–9 p.m.
Cafeteria, Kealakehe, Elementary School, 74–5118 Kealakaa St., Kailua-Kona HI 96740

Kauai—22 Feb. 1993, 6–9 p.m.
Dining Room, Kauai, Community College, 3–9101 Kaumualii Hwy., Puhi, HI 96766

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Western Pacific Fishery Management Council, 1164 Bishop St. #1405, Honolulu, HI 96813; telephone (808) 541–1974.

Dated: February 4, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management National Marine Fisheries Service.

[FR Doc. 93-3152 Filed 2-9-93; 8:45 am]

BILLING CODE 3510-22-M

National Telecommunications and Information Administration

Spectrum Planning Advisory Committee, CITEL Subcommittee; Meeting

AGENCY: National Telecommunications and Information Administration, Commerce.

ACTION: Notice of meeting, CITEL Subcommittee, Spectrum Planning Advisory Committee.

SUMMARY: In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. appendix 2, notice is hereby given that the CITEL Subcommittee of the Spectrum Planning Advisory Committee (SPAC) will meet on February 19, 1993, March 12, 1993, March 31, 1993 and April 22, 1993 at 9:30 a.m. in room 1605 at the United States Department of Commerce, Herbert C. Hoover Building, 14th Street and Constitution Ave., NW., Washington, DC. Entrance to the building is at 14th Street and Pennsylvania Ave., NW.

The agenda for the CITEL Subcommittee meetings includes discussion of the change of status of the CITEL, preparation for CITEL Permanent Technical Committee (PTC–1) and discussion of follow-up actions from the Acapulco, Mexico Conference. The meeting is open for public observation. A period will be set aside for oral comments or questions by the public which do not exceed 10 minutes each per member of the public. More extensive questions or comments should be submitted in writing before February 16, 1993. Other public statements regarding Subcommittee affairs may be submitted at any time before or after the meeting. Approximately 20 seats will be available for the public on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Inquires may be addressed to the Convener SPAC/CITEL Subcommittee, Mr. William M. Moran, National Telecommunications and Information Administration, room 4716, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230 telephone 202–482–1866.

Dated: February 3, 1993.

Richard Lancaster,

Executive Secretary, Spectrum Planning Advisory Committee, National Telecommunications and Information Administration.

[FR Doc. 93-3113 Filed 2-9-93; 8:45 am]

BILLING CODE 3510-60-M

CONSUMER PRODUCT SAFETY COMMISSION

Notification of Request for Extension of Approval of Information Collection Requirements—Children's Sleepwear Flammability Standards

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), the Consumer Product Safety Commission has submitted to the Office of Management and Budget a request for extension of approval through January 31, 1996, of information collection requirements in the flammability standards for children's sleepwear and enforcement rules, codified at 16 CFR parts 1615 and 1616. These standards and enforcement rules are applicable to children's sleepwear garments in sizes 0 through 14, and to fabrics used in the production of such garments. The standards and enforcement rules require manufacturers and importers of children's sleepwear garments and fabrics to perform periodic testing of representative samples to assure that children's sleepwear items meet the performance requirements of the standards. The enforcement rules also require manufacturers and importers to compile and maintain records of the testing required by the standards, and to

make those records available to Commission investigators upon request.

Additional Details About the Request for Extension of Approval of Information Collection Requirements

Agency address: Consumer Product Safety Commission, Washington, DC 20207.

Title of information collection: Standards for the Flammability of Children's Sleepwear, Sizes 0 Through 6X (16 CFR 1615) and Sizes 7 Through 14 (16 CFR 1616).

Type of request: Extension of approval.

General description of respondents: Manufacturers and importers of children's sleepwear garments and fabrics used in the production of children's sleepwear.

Frequency of collection: Varies depending upon the number of styles of items produced or imported and by the number of items of each style produced or imported each year.

Estimated number of respondents: 63.

Estimated average number of hours per respondent: 1,650 per year.

Estimated number of hours for all respondents: 103,950 per year.

Comments: Comments on this request for extension of approval of information collection requirements should be addressed to Donald Arbuckle, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington DC 20503; telephone (202) 395-7340. Copies of the request for extension of information collection requirements are available from Francine Shacter, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 504-0416.

This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 93-3095 Filed 2-9-93; 8:45 am]

BILLING CODE 6355-01-F

DELAWARE RIVER BASIN COMMISSION

Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, February 17, 1993.The hearing will be part of the Commission's business meeting which is open to the public and scheduled to begin at 1 p.m. in the Goddard Conference Room of the Commission's offices at 25 State Police Drive, West Trenton, New Jersey.

An informal conference session among the Commissioners and staff will be open for public observation at 9:30 a.m. at the same location and will include discussions on proposed Special Protection Waters nonpoint source regulations; the upper Delaware ice jam project; Neshaminy Basin Pilot Watershed Study; proposed revisions to the Commission's ground and surface water withdrawal renewal procedures; and support for EPA's Region III Volunteer Monitoring Conference.

The subjects of the hearing will be as follows:

Amendment of Ground and Surface Water Withdrawal Renewal Procedures. Under current Commission policy, ground water docket approvals are subject to Commission renewal on a five-year basis while surface water docket approvals are presently not renewed. Continued ground water project renewal on a five-year basis would greatly increase the total number of project reviews conducted by Commission staff at the same time staff workload has recently increased due to additional regulatory activity. In recognition of the fact that surface and ground water are interrelated and withdrawals from both can significantly affect water budgets, the Commission's Ground Water Advisory Committee is now recommending the ground water docket approvals be renewed on a ten-year basis and that surface water withdrawals be subject to similar renewal procedures. The proposal would set renewal periods for both at ten years with the ability to extend surface water docket approvals to a maximum of 25 years if the applicant can demonstrate a compelling need for such an extension. In addition, ground and surface water docket approvals would be coordinated with the permitting requirements of the individual Basin states.

Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or Section 3.8 of the Compact

1. *Holdover Project: Upper Merion Municipal Utility Authority D-92-51 CP.* A sewage treatment plant (STP) expansion project that will increase the existing 5.0 million gallons per day (mgd) capacity STP to treat an average of 6.0 mgd of wastewater generated in the applicant's Upper Merion Township service area. The STP will provide secondary treatment with a trickling filter/solids contact process. The STP is located near the confluence of Trout Creek with the Schuylkill River and will continue to discharge to Trout Creek via the existing outfall structure all within Upper Merion Township, Montgomery County, Pennsylvania. This hearing continues that of January 20, 1993.

2. *Star Enterprise D-87-91 RENEWAL.* An application for the renewal of a ground water withdrawal of up to 3.0 million gallons (mg) of water from an interceptor trench as part of the applicant's oil recovery/ground water decontamination project. Commission approval on January 13, 1988 was limited to five years. The applicant requests that the total withdrawal from the interceptor trench be reduced from 17.28 mg/30 days to 3.0 mg/30 days. The project is located in New Castle County, Delaware.

3. *Wilmington Suburban Water Corporation D-91-72 CP.* A surface water supply project that entails an increase withdrawal at the applicant's existing White Clay Creek intake adjacent to its Stanton water treatment plant. The applicant provides water to portions of northern New Castle County and requests an increase in its water withdrawal from 16 mgd to 30 mgd. The project is located just off First State Boulevard in Stanton, New Castle County, Delaware.

4. *Heidelburg Country Club D-92-27.* An application for approval of a surface water withdrawal project for purposes of golf course irrigation and snowmaking. The applicant will withdraw up to a combined total of 6.75 mg/30 days (0.225 mgd) from the Tulpehoken Creek and a spring-fed pond in the Tulpehoken Creek watershed. The water will be used for irrigation of the golf course during the summer months and snowmaking for the Blue Marsh ski trails in winter months. The Tulpehoken Creek intake is located approximately 2000 feet upstream of the Little Northkill Creek confluence and is on the north bank of Tulpehoken Creek. The golf course pond is situated just north of the Tulpehoken Creek on the county club property. The project is located in Jefferson Township, Berks County, Pennsylvania.

5. *Pedricktown Cogeneration Limited Partnership D-92-37.* An application for approval of a ground water withdrawal project to supply up to 26.14 mg/30 days of water to the applicant's cogeneration facility from new Well No. PW-3, and to increase the existing withdrawal limit of 14.26 mg/30 days from all wells to 24.55 mg/30 days. The project is located in Oldmans Township, Salem County, New Jersey

6. *Schwenksville Borough Authority D-92-39 CP.* An application for the renewal of a ground water withdrawal

project to supply up to 14.58 mg/30 days of water to the applicant's distribution system from Well Nos. 3, 4, 5, 6 and 7 and to incorporate all wells into one comprehensive docket. Commission approval of dockets D–87–71 CP and D–78–33 CP Renewal expired on September 22, 1992. The applicant requests that the total withdrawal from all wells remain limited to 14.58 mg/30 days. The project is located in Schwenksville Borough, Montgomery County, in the Southeastern Pennsylvania Ground Water Protected Area.

7. *NcNeil Consumer Products Company D–92–70.* An application to upgrade and modify the existing 0.092 mgd McNeil Consumer Products industrial wastewater treatment plant (IWTP) to treat 0.113 mgd. The IWTP serves a pharmaceutical production plant located in Whitemarsh Township, Montgomery County, Pennsylvania. The IWTP will continue to provide advanced secondary treatment prior to discharge to Sandy Run.

8. *Hamburg Municipal Authority D–92–73 CP.* An application for approval of modifications to the Hamburg Municipal Authority's existing 1.0 mgd secondary sewage treatment plant (STP). The STP will continue to serve the Borough of Hamburg plus a small portion of Windsor Township, and discharge to the Schuylkill River. The STP is locate in the Borough of Hamburg, Berks County, Pennsylvania.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact George C. Elias concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

Dated: February 2, 1993.

Susan M. Weisman,

Secretary.

[FR Doc. 93–3109 Filed 2–9–93; 8:45 am]

BILLING CODE 6360–01–M

DEPARTMENT OF ENERGY

DOE Response to Recommendation 92–5 of the Defense Nuclear Facilities Safety Board Concerning Discipline of Operations Throughout the Defense Nuclear Facilities Complex

AGENCY: Department of Energy.

ACTION: Notice and request for public comment; republication.

SUMMARY: Pursuant to section 315(b) of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2286d(b), the Department of Energy (DOE) hereby publishes notice of a response of the Secretary of Energy (Secretary) to Recommendation 92–5 of the Defense Nuclear Facilities Safety Board, published in the **Federal Register** on August 28, 1992, (57 FR 39191) concerning discipline of operations in a changing defense nuclear facilities complex. Today's notice replaces the previously published notice of January 8, 1993 (58 FR 3266).

DATES: Comments, data, views, or arguments concerning the Secretary's response are due on or before March 12, 1993.

ADDRESSES: Send comments, data, views, or arguments concerning the Secretary's response to: Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., suite 700, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Mr. Donald F. Knuth, Deputy Assistant Secretary for Operations, Defense Programs, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Issued in Washington, DC on February 4, 1993.

Mark B. Whitaker,

Acting Departmental Representative to the Defense Nuclear Facilities Safety Board.

December 16, 1992.

The Honorable John T. Conway,
Chairman, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, suite 700, Washington, DC 20004

Dear Mr. Conway: On August 17, 1992, the Defense Nuclear Facilities Safety Board issued Recommendation 92–5, Discipline of Operations in a Changing Defense Nuclear Facilities Complex, to the Department of Energy. I have reviewed the three parts of Recommendation 92–5 and accept these recommendations as addressed in the enclosed Implementation Plan for Recommendation 92–5.

Sincerely,

James D. Watkins,

Admiral, U.S. Navy (Retired).

Enclosure

Implementation Plan for Board Recommendation 92–5, Discipline of Operations in a Changing Defense Nuclear Facilities Complex

There have been major mission changes in the defense nuclear complex, and further changes will continue to take place as international commitments and agreements affecting the nuclear defense activities of the Department of Energy (DOE) further evolve. A period of transition will take place. Some facilities will be put in a standby condition. Others will be permanently shut down and dismantled after appropriate attention to cleanup. These changes will bring new challenges and a need for continued improvement in discipline of operations to ensure safety of the public including the workers. The Department has made significant progress through inaugurating the cultural changes initiated by the Secretary and, in many cases, has instituted safety requirements exceeding those currently demanded of the civilian nuclear industry.

In issuing his safety policy in SEN–35–91, the Secretary stated safety goals applicable to all defense nuclear facilities of the DOE. As such, the Department will not abandon any facility without having conducted the necessary activities to ensure public and worker safety. At the same time, DOE intends to ensure that those facilities to be placed in standby for possible reactivation and return to service can be reactivated, if needed, in a cost-effective and safe manner.

The first recommendation of 92–5 relates to "defense nuclear facilities scheduled for long term continued programmatic defense operations or for other long term uses, such as in cleanup of radioactive contamination or in storage of nuclear waste or other nuclear material from programmatic defense operations." DOE Order 5480.19 on conduct of operations provides the guidelines to achieve the formality and discipline associated with excellence in operations. The Department intends to implement this order in a graded manner commensurate with the health and safety risks associated with the particular facility. All activities will be conducted in a formal and disciplined manner which is consistent with the guidelines for conduct of operations and which takes into account the actual activities at that facility. However, under the graded approach, the conduct of operations program for long term storage of special nuclear material or low level waste would differ from the intensive program required at a defense production reactor. The concept of a graded approach has been discussed previously with the Board in connection with DOE Recommendation 90–2 Standards Compliance Implementation Plan and is being used at facilities such as Rocky Flats Building 559, the Waste Isolation Pilot Plant, Savannah River Site's K-Reactor and Replacement Tritium Facility, and Los Alamos TA–55.

The second recommendation of 92–5 relates to Operational Readiness Reviews (ORRs). This section of Recommendation 92–5 is superseded and subsumed in Defense Nuclear Facilities Safety Board Recommendation 92–6, "Operational Readiness Reviews."

The "graded approach" with respect to ORRs will be defined in the Implementation Plan for Recommendation 92–6.

The third recommendation of 92–5 discusses facilities designated for various other future modes of use such as standby. The intent is to place those facilities that may later resume some degree of production in an appropriate state of readiness to include a conduct of operations program pertinent to facility aspects and programs needed to support future activities. Specific attributes of such a program include the following items:

- Decontamination will be pursued to the point where a future operating staff can enter the facility and make use of it without unnecessary exposure to radiological hazards. Radiological hazardous and toxic contaminated areas will be stabilized, recorded, and posted. Facility stabilization and custodial control will be sufficiently complete that events such as fires, electrical power losses, and anticipated natural phenomena (earthquakes, wind, storms, and floods) would not lead to undue risk to the public.
- In the case of waste storage tanks, the ultimate disposition (disassembly or reuse) of tanks will be the determining factor for actions to be completed. As a minimum, periodic tank inspections will be conducted to ensure all tanks are placed and maintained in proper condition (e.g., inert blanket, vented, drained, purged) and the status of the tanks identified in a master log.
- Configuration and process descriptions will be maintained consistent with future mission potential. For example, for facilities for which future operation is very likely, configuration drawings, system design descriptions, process descriptions, and safety analyses will be updated so that a future operating staff will have the ability to initiate facility activation operations with adequate freedom from the possibility of accidents caused by incomplete or inaccurate understanding of the state of the facility and its proper use.

In cases where the potential exists for facility resumption in the near term (2–5 years), training programs and manuals will also be prepared as part of this process of preparation for standby status with sufficient depth to permit indoctrination and qualification of new operating and maintenance personnel to take over their assigned functions. These will also instruct the personnel in the radiological and other safety aspects of the functions they are to assume.

Accomplishment of these activities and objectives will be confirmed by DOE line management and, where applicable, by other Departmental organizations such as the Office of Nuclear Safety and the Office of Environment, Safety and Health.

As part of the Department's budgetary process, each Program Secretarial Officer (PSO) continuously reviews plans for future use of the facilities under his jurisdiction. As changes take place in mission objectives and as the reconfiguration plan for the new defense nuclear complex matures, one can reasonably expect changes in plans for usage of existing facilities. Periodically, and at least annually, the PSOs will inform the Board in writing on the revised status of defense nuclear facilities and on plans for their future use, including a discussion on the ways which the objectives of this implementation plan are being accomplished.

This recommendation, by its general nature and broad purpose, does not allow for development of a detailed and scheduled implementation plan that could be accomplished on a one-time basis in a specified time period. By accepting the principles of Recommendation 92–5 and by its commitment to periodically inform the Board of ongoing efforts at specific facilities, the Department meets the spirit and intent of Recommendations 92–5.

[FR Doc. 93–3173 Filed 2–9–93; 8:45 am]
BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Project No. 2713–014 New York]

Niagara Mohawk Power Corp.; Notice of Availability of Environmental Assessment

February 4, 1993.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR part 380 (Order No. 486, 52 FR 47910), the Office of Hydropower Licensing (OHL) has reviewed the application for amendment of license to install a minimum flow unit at the South Edwards Development of the Oswegatchie River Project on the east branch of the Oswegatchie River, St. Lawrence County, New York. The staff of OHL's Division of Project Compliance and Administration prepared an Environmental Assessment (EA) for the proposed action. In the EA, the staff concludes that construction and operation of the minimum flow unit would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Reference and Information Center, room 3308, of the Commission's Offices at 941 North Capitol Street, NE., Washington, DC 20426.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–3160 Filed 2–9–93; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Memorandum of Understanding on Natural Gas Transportation Facilities

To promote interagency cooperation and collaboration in the area of natural gas transportation, the Department of Transportation and the Federal Energy Regulatory Commission have signed a Memorandum of Understanding (MOU). The MOU addresses respective agency statutory responsibilities to assure the safe and environmentally sound siting, design, construction, operation, and maintenance of natural gas transportation facilities. The text of the MOU appears below.

George W. Tenley, Jr.,

Associate Administrator for Pipeline Safety, Research and Special Programs Administration, Department of Transportation.

Kevin P. Madden,

Director, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission.

Purpose

The purpose of this Memorandum of Understanding (MOU) between the Department of Transportation (Department) and the Federal Energy Regulatory Commission (Commission) is to provide guidance and set policy for their respective technical staffs and the regulated natural gas pipeline industry regarding the execution of the agencies' respective statutory responsibilities to ensure the safe and environmentally sound siting, design, construction, operation, and maintenance of natural gas transportation facilities.

Background

The Department, through the Research and Special Programs Administration (RSPA), exercises the authority to promulgate and enforce safety regulations and standards for the transportation of natural gas in or affecting interstate or foreign commerce. RSPA exercises its authority over

natural gas facilities under the Natural Gas Pipeline Safety Act of 1968 as amended (NGPSA) (49 App. U.S.C. 1671 *et seq.*) and the Hazardous Materials Transportation Act (HMTA) (49 App. U.S.C. 1801 *et seq.*).

The regulations and standards promulgated under these authorities extend, *inter alia*, to the design, installation, construction, initial inspection, initial testing, operation, and maintenance of facilities used in the transportation of natural gas by pipeline. The Department enforces compliance with these regulations and standards through an inspection program and, when appropriate, the imposition of civil, criminal, or administrative remedies. Under criteria established by NGPSA, states are eligible to assume these regulatory and enforcement functions as they apply to intrastate pipeline transportation. Although intrastate facilities are not subject to this MOU, the regulations and standards governing pipeline transportation promulgated by the Department generally apply to both interstate and intrastate facilities.

The Commission, under section 7 of the Natural Gas Act (15 U.S.C. 717 *et seq.*), issues certificates of public convenience and necessity with terms and conditions for facilities proposed for use in the sale for resale or transportation of natural gas in interstate commerce. As required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), the Commission prepares environmental impact statements or environmental assessments for proposed natural gas transmission facilities in conjunction with the issuance of certificates.

Natural gas pipeline companies may also construct certain natural gas transmission facilities under Section 311 of the Natural Gas Policy Act (15 U.S.C. 3301 *et seq.*). Facilities constructed under this section must comply with the environmental requirements of 18 CFR 157.206(d).

In addition, the Secretary of Energy under Section 3 of the Natural Gas Act (15 U.S.C. 717 *et seq.*) has approval authority for the import and export of natural gas. The Secretary of Energy has delegated and assigned section 3 authority to the Commission to approve gas import and export facilities and their siting.

This MOU acknowledges the Department's exclusive authority to promulgate Federal safety standards for facilities used in the transportation of natural gas. However, under the Natural Gas Act, the Commission exercises the authority over the siting of interstate natural gas transmission facilities and may impose conditions to mitigate the impact of construction or operation on the environment.

Responsibilities

The Department and the Commission agree to the following program:

1. The Department shall:

a. Promptly alert the Commission when the Department's safety activities may impact the responsibilities of the Commission.

b. Establish a means to notify the Commission of major accidents (i.e., fatalities, multiple injuries requiring hospitalization, or property damage exceeding $50,000) involving pipeline facilities under the jurisdiction of the Commission.

c. Establish a means to notify the Commission of significant enforcement actions involving pipeline facilities under the jurisdiction of the Commission.

d. Refer to the Commission, after screening, complaints and inquiries made by state and local governments and the general public involving environmental or certificate matters related to pipelines under the Department's jurisdiction.

e. When requested by the Commission, review draft mitigation conditions considered by the Commission for potential conflicts with the Department's regulations.

2. The Commission shall:

a. Promptly alert the Department when the Commission becomes aware of an existing or potential safety problem involving natural gas transmission facilities.

b. Establish means to notify the Department of future pipeline construction, such as providing Notices of Applications for construction certification or certificate orders issued to companies that propose pipeline construction.

c. Periodically provide the Department with updates to the environmental compliance inspection schedule, and coordinate site inspections, upon request, with Department headquarters or regional offices.

d. Establish a means to notify the Department when significant safety issues have been raised during the preparation of environmental assessments or environmental impact statements.

e. Refer to the Department, after screening, complaints and inquiries made by state and local governments and the general public involving safety matters related to pipelines under the Commission's jurisdiction.

Administration

The Department and the Commission will designate appropriate staff representatives and will establish joint working arrangements from time to time to administer this MOU.

Effective Date

This MOU shall take effect upon signing by authorized representatives of the Department and the Commission.

Limitations

1. Nothing in this MOU is intended to restrict the statutory authority of the Department or the Commission.

2. Nothing in this MOU is intended to replace, supersede, or modify the existing MOU between the Department and the Commission regarding liquefied natural gas facilities published in the **Federal Register** on May 15, 1985 (50 FR 20275).

Modification and Termination

The Department and the Commission each reserves the right to suspend, modify, or terminate its respective commitments contained in this MOU upon written notice to the other party at least 30 days prior to exercising this right.

Dated: December 3, 1992.

U.S. Department of Transportation.

Andrew H. Card, Jr.,

Secretary.

Dated: January 15, 1993.

Federal Energy Regulatory Commission.

Martin L. Allday,

Chairman.

[FR Doc. 93-3106 Filed 2-9-93; 8:45 am]

BILLING CODE 4910-60-M

[Docket No. JD93-04012T Texas-104]

State of Texas; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

February 4, 1993.

Take notice that on February 1, 1993, the Railroad Commission of Texas (Texas) submitted the above-referenced notice of determination pursuant to section 271.703(c)(3) of the Commission's regulations, that the Strawn-Detrital Formation underlying portions of Crockett County, Texas, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The designated area contains approximately 7,941 acres and is more fully described on the attached appendix.

The notice of determination also contains Texas' findings that the referenced portions of the Strawn-

Detrital Formation meet the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Linwood A. Watson, Jr.,

Acting Secretary.

Appendix

The designated area lies within Railroad Commission District No. 7C and consists of all or part of the following surveys:

W/2 of Section 41, Block ST, T.C. RR. Co. Survey, A–4388

E/2 of Section 36, Block ST, J.W. Henderson Survey (Original Grantee), A–4845

All of Section 35, Block ST, T.C. RR. Co. Survey, A–4010

All of Section 24, Block ST, J.R. Talley Survey (Original Grantee), A–5202

All of Section 23, Block ST, G.C. & S.F. RR. Co. Survey, A–3295

All of Section 19, Block ST, T.C. RR. Co. Survey, A–3479

All of Section 34, Save and Except the West 75 Acres, Block ST, J.W. Henderson Survey (Original Grantee), A–5123

All of Section 33, Block ST, T.C. RR. Co. Survey, A–4594

All of Section 30, Block ST, J.R. Talley (Original Grantee), A–5276

All of Section 27, Block ST, H.E. & W.T. RR. Co. Survey, A–4301

All of Section 9, Block SL, T. & ST.L. RR. Co. Survey, A–4189

North 100 Acres of Section 3, Block Z, J.W. Henderson Survey (Original Grantee), A–5524

All of Section 31, Block ST, M.K. & T.R. RR. Co. Survey, A–5589

All of Section 32, Block ST, P.L. Childress (Original Grantee), A–5474

N/2 of Section 1, Block M, G.C. & S.F. RR. Co. Survey, A–2411

All of Section 24, Block M, J.W. Henderson Survey (Original Grantee), A–4496

N/2 of Section 13, Block M, G.C. & S.F. RR. Co. Survey, A–2126.

[FR Doc. 93–3161 Filed 2–9–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. JD93–04013T Texas–105]

State of Texas; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

February 4, 1993.

Take notice that on February 1, 1993, the Railroad Commission of Texas (Texas) submitted the above-referenced notice of determination pursuant to section 271.703(c)(3) of the Commission's regulations, that the Travis Peak Formation underlying portions of Nacogdoches County, Texas, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The designated area is in the Appleby, N. (Travis Peak) Field, within Railroad Commission District 6. The area is described as the portions of the lands in the OXY USA Inc. Deloney B Unit, the OXY USA Inc. Jackson E Unit and OXY USA Inc. Lee E Unit. These units lie in the Jno. A. Harris A–279, Jno. A. Harris A–278, J.F.F. Dohert A–184, W.A. Bishop A–107, Wm. Hays A–292 and Maria D. Castro A–133 surveys. Specifically the requested area lies in all or part of the Maria D. Castro A–133, W.A. Bishop A–107, J.F.F. Dohert A–184 and Wm. Hays A–292 surveys.

The notice of determination also contains Texas' findings that the referenced portions of the Travis Peak Formation meet the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–3162 Filed 2–9–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP92–214–005]

El Paso Natural Gas Co., Notice of Motion To Place Tariff Sheets Into Effect

February 4, 1993.

Take notice that on February 1, 1993, El Paso Natural Gas Company ("El Paso"), tendered for filing pursuant to section 4(e) of the Natural Gas Act and section 154.67(a) of the Federal Energy Regulatory Commission's ("Commission") Regulations Under the Natural Gas Act, a motion to place into effect on February 1, 1993, certain tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1–A, Second Revised Volume No. 1 and Third Revised Volume No. 2, and the rates and modifications set forth therein.

El Paso states that on July 31, 1992 at Docket No. RP92–214–000, it filed with the Commission a notice of change in rates for natural gas service rendered to its transportation and sales customers to become effective September 1, 1992. El Paso states that by order issued August 31, 1992 at Docket Nos. RP92–214–000 and RS92–60–000 ("Suspension Order"), the Commission conditionally accepted the tariff sheets, suspended their effectiveness for five months (5) to become effective February 1, 1993, subject to refund, and established hearing procedures. Further, such acceptance was conditioned on El Paso making a showing, thirty (30) days prior to the end of the suspension period, that it has satisfied the at-risk condition with respect to its expansion facilities authorized at Docket No. CP90–2214–000. El Paso states that in addition, ordering paragraph (B) directed El Paso to refile its cost mitigation study, within thirty (30) days of the date of the order, that addresses cost shifts by rate schedule, by zone, using the throughput and cost of service underlying the currently effective rates found in Docket No. RP92–214–000. The Commission stated that El Paso's motion rates must reflect any change in the rates necessitated by the new mitigation study, subject to the Commission's review.

El Paso states that on September 30, 1992, it filed in compliance with ordering paragraph (B) of the Suspension Order and requested that its cost mitigation study and proposed mitigation measures be accepted as originally filed. El Paso states that on December 2, 1992, it refiled its mitigation studies in response to the Commission's November 2, 1992 order at Docket Nos. RP92–214–002 and RS92–60–005 and on December 31, 1992, it filed its Order No. 636, *et seq.*, compliance filing at Docket No. RS92–60–000 which also included mitigation studies. El Paso states that on January 19, 1993, in response to a January 14, 1993 letter order form OPPR, it requested that the Commission utilize the data filed on December 31, 1992 at Docket No. RS92–60–000 or to the extent possible, postpone such analysis until receipt of El Paso's proposed settlement proposal at Docket Nos. RP91–188–000 and RP92–214–000. El Paso states that since it included mitigation measures in its original

filing, the rates set forth on the tendered tariff sheets reflect such rates.

El Paso states that on December 31, 1992 it filed in compliance with the Suspension Order showing that it had satisfied the at-risk condition for its expansion facilities authorized at Docket No. CP90–2214–000.

El Paso states that ordering paragraph (C) of the Suspension Order required El Paso to file not later than January 31, 1993, rates and related workpapers to reflect the actual plant in service on January 31, 1993. El Paso states that it submitted a schedule reflecting the actual gas plant in service as of January 31, 1993 which exceeds the actual gas plant projected to be in service January 31, 1993. El Paso states that since the actual plant in service is in excess of the plant projected to be in service, no rate adjustment has been made.

El Paso states that copies of the document were served upon all interstate pipeline system transportation and sales customers of El Paso and all interested state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before February 11, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–3163 Filed 2–9–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP92–50–003]

High Island Offshore System; Notice of Compliance Filing

February 4, 1993.

Take notice that on January 28, 1993, High Island Offshore System ("HIOS") filed 1st Revised Eighth Revised Sheet No. 8 to HIOS' FERC Gas Tariff, First Revised Volume No. 1 in compliance with the Commission's December 28, 1992, letter order approving an uncontested Stipulation and Agreement ("S&A") herein. HIOS states that in accordance with article I of the S&A such tariff sheet reflects an effective date of March 1, 1993.

HIOS also states that such tariff sheet reflects the settlement rates set forth in appendix A to the S&A, as adjusted pursuant to article III of the S&A to reflect certain reductions in its costs related to measurement, dehydration, and separation at the Grand Chenier facilities of ANR Pipeline Company.

Any person desiring to protest said filing should file a protest with the Federal Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before February 11, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–3167 Filed 2–9–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. MT93–3–000]

Louisiana-Nevada Transit Co.; Notice of Proposed Changes in FERC Gas Tariff

February 4, 1993.

Take notice that Louisiana-Nevada Transit Company ("LNT"), on January 21, 1993, tendered for filing with the Federal Energy Regulatory Commission ("Commission") the following tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1:

Original Sheet No. 23N
Original Sheet No. 230

Such tariff sheets are filed pursuant to section 250.16 of the Commission's regulations. LNT requests that the Commission permit such tariff sheets to become effective November 12, 1992 which is the date that LNT's stock was purchased by EnMark Gas Corp.

Pursuant to section 154.51 of the Commission's regulations, LNT requests that the Commission grant any waiver of notice or any other waiver of its regulations or policies that may be required.

LNT states that a copy of its filing has been served upon its customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with section 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.311 and 385.214) on February 22, 1993. All such motions or protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–3166 Filed 2–9–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM93–1–92–000]

Mojave Pipeline Co.; Notice of GRI Charge Filing

February 4, 1993.

Take notice that on December 15, 1992, Mojave Pipeline Company (Mojave) submitted Second Revised Sheet No. 11 to be part of its FERC Gas Tariff Original Volume No. 1 pursuant to Commission Order issued August 28, 1992, in Docket No RP92–133–000 (Phase I), reflecting an $0.08 per MMBtu Gas Research Institute (GRI) reservation charge, and a continuation of the existing $0.0147 per MMBtu GRI volumetric charge to be effective as of January 1, 1993. Mojave's filing fee was inadvertently omitted from its submittal and not sent until December 17, 1992 (a re-issued check was received on February 1, 1993, when it was determined that the original check was missing). Mojave requests that its check and filing be considered as if received on December 18, 1992.

Mojave states that it served copies of this filing on all of Mojave customers, and requests that the Commission grant any waivers the Commission deems necessary to permit the tariff sheet to become effective January 1, 1993.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214. All such protests should be filed on or before February 17, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the

Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93-3165 Filed 2-9-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-259-063]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

February 4, 1993.

Take notice that on January 29, 1993, Northern Natural Gas Company (Northern) tendered for filing to become part of Northern's FERC Gas Tariff, the following tariff sheets:

Fourth Revised Volume No. 1

First Revised Original Sheet No. 50
First Revised Substitute Original Sheet No. 51
First Revised Original Sheet No. 52
First Revised Original Sheet No. 53
Substitute Original Sheet No. 55
Substitute Original Sheet No. 56
First Revised Original Sheet No. 57
First Revised Original Sheet No. 58
Substitute Original Sheet No. 59
First Revised Original Sheet No. 60

Original Volume No. 2

Substitute 120 Revised Sheet No. 1C
1 Rev Fourteenth Revised Sheet No. 1C.a

Northern states that the tariff sheets are being filed in compliance with the Commission's January 19, 1993 Order Accepting Tariff Sheets Subject to Condition. The tariff sheets reflect Northern's rates utilizing Clifton as the demarcation point between Northern's Field and Market Areas.

Northern further states that copies of the filing have been mailed to each of its customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before February 11, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93-3164 Filed 2-9-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA93-1-7-000]

Southern Natural Gas Co.; Notice of Proposed Changes in FERC Gas Tariff

February 4, 1993.

Take notice that on February 1, 1993, Southern Natural Gas Company (Southern) tendered for filing the following revised sheets to its FERC Gas Tariff, Sixth Revised Volume No. 1:

Fourth Revised One-Hundred Twenty-Fourth Revised Sheet No. 4A
Fourth Revised Thirty-Seventh Revised Sheet No. 4B
Fourth Revised Forty-Third Revised Sheet No. 4J

Southern states that the proposed tariff sheets and supporting information are being filed with a proposed effective date of April 1, 1993, pursuant to the Purchased Gas Adjustment clause of its FERC Gas Tariff and section 154.305 of the Commission's Regulations.

The proposed tariff sheets reflect the following revisions to the Current Adjustment and Surcharge Adjustment components of Southern's rates:

Current Adjustment

1. A decrease of $.316 per Mcf at 1,000 Btu in the commodity component.
2. A decrease of $.016 per Mcf at 1,000 Btu in the demand component for all zones.

Surcharge Adjustment

1. A positive adjustment of $.046 per Mcf at 1,000 Btu in the commodity component.
2. A positive adjustment of $.044 per Mcf at 1,000 Btu in the demand component.

Copies of Southern's filing were served upon all of Southern's jurisdictional purchasers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commissions's Rules of Practice and Procedure (section 385.214, 385.211). All such petitions and protests should be filed on or before February 22, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93-3169 Filed 2-9-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-177-102]

Texas Eastern Transmission Corp.; Notice of Reconciliation Report

Feburary 4, 1993.

Take notice that on December 1, 1992, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing its report on its gas supply inventory (GSI) reservation charge, in compliance with ordering paragraph (D) of the Commission's August 31, 1992 order setting a termination date for its gas inventory charge.

Texas Eastern states that consistent with the requirements of Section 28, GSI reservation charge, of its FERC Gas Tariff, Fifth Revised Volume No. 1 as in effect prior to November 1, 1992, its report reflects (i) the amount GSI charges collected from buyers and applicable interest thereon by contract year, (ii) the current amounts refunded to buyers, (iii) the current amounts paid by seller for GSI costs, and (iv) the remaining balance by contract year of GSI reservation charges and applicable interest thereon as of October 31, 1992, applicable to the contract years November 1, 1989 through October 31, 1990, November 1, 1990 through October 31, 1991, and November 1, 1991 through October 31, 1992.

Texas Eastern states that copies of the filing have been sent to Texas Eastern's jurisdictional sales customers and applicable state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before February 11, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93-3168 Filed 2-9-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket RP93-40-001]

Western Gas Interstate Co.; Filing

February 4, 1993.

Take notice that on February 1, 1993, Western Gas Interstate Company ("Western"), pursuant to the Commission's Order of December 31, 1992 tendered for filing proposed changes to its FERC Gas Tariff to be effective no later than May 1, 1993.

Western states that it filed these tariff sheets in compliance with the Commission's Order that only currently effective services be included, while services and costs which are associated with its restructuring proceeding be excluded.

Western has filed tariff sheets revising its currently effective tariff, new rates reflecting a cost of service that excludes restructuring costs, and a revised Statement N. Western has also included a cost study demonstrating the impact on each customer of the switch to SFV.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before February 11, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93-3159 Filed 2-9-93; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 93-02-NG]

Western Natural Gas and Transmission Corp.; Order Granting Blanket Authorization to Import and Export Natural Gas from and to Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of an order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Western Natural Gas and Transmission Corporation blanket authorization to import from Canada up to a maximum of 40 Bcf of natural gas and to export to Canada up to a maximum of 20 Bcf of natural gas over a two-year term beginning on the data of first import or export.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, February 4, 1993.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93-3172 Filed 2-9-93; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4593-5]

Revision of the Ohio National Pollutant Discharge Elimination System Program To Authorize the Issuance of General Permits

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of approval of the National Pollutant Discharge Elimination System General Permit Program of the State of Ohio.

SUMMARY: On August 17, 1992, the Regional Administrator for the Environmental Protection Agency (U.S. EPA), Region 5, approved the State of Ohio's National Pollutant Discharge Elimination System (NPDES) General Permit Program. On July 2, 1992, the Ohio Environmental Protection Agency (Ohio EPA) submitted a formal request for approval to revise its NPDES Permit Program to authorize the issuance of general NPDES permits. This action authorizes the State of Ohio to issue general permits in lieu of individual NPDES permits. Based on its review of Ohio's legal authority, U.S. EPA determined that no statutory or regulatory changes were necessary for the State to administer a general permit program. U.S. EPA has thus determined Ohio's program modification to be non-substantial.

FOR FURTHER INFORMATION CONTACT: Matt Gluckman, U.S. Environmental Protection Agency, Region 5 (WQP-16J), 77 West Jackson Boulevard, Chicago, Illinois 60604-3507, (312) 886-6089.

SUPPLEMENTARY INFORMATION:

I. Background

U.S. EPA regulations at 40 CFR 122.28 provide for the issuance of general permits to regulate the discharge of wastewater which results from substantially similar operations, are of the same type wastes, require the same effluent limitations or operating conditions, require similar monitoring and are more appropriately controlled under a general permit rather than by individual permits.

Ohio was authorized to administer the NPDES program on March 11, 1974. As previously approved, the State's program did not include provisions for the issuance of general permits. A number of categories of discharges can be appropriately regulated by general permits. For these reasons, the Ohio EPA requested a revision of the State's NPDES program to provide for the issuance of general permits. Storm water discharges are currently under consideration for the general permit program, though additional categories could be considered in the future.

Each general permit will be subject to U.S. EPA review and approval as provided by 40 CFR 123.44. Public notice and opportunity to request a hearing is also provided for each general permit.

II. Discussion

The State of Ohio submitted in support of its request, copies of the relevant statutes and regulations for implementing the program. The State has also submitted a statement dated July 22, 1992, by the Attorney General certifying, with appropriate citations to the statutes and regulations that the State will have adequate legal authority to administer the general permit program as required by 40 CFR 123.23(c). In addition, the State submitted a program description supplementing the original application for the NPDES program authority to administer the general permit program, including the authority to perform each of the activities set forth in 40 CFR 123.44. The State has also submitted an Amendment to the Memorandum of Agreement between the State of Ohio EPA and U.S. EPA, Region 5 specifying the procedures through which general permits will be issued and administered by the State. Based upon Ohio's program description and upon its experience in administering an approved NPDES program, U.S. EPA has concluded that the State will have the necessary procedures and resources to administer the general permit program.

III. Federal Register Notice of Approval of State NPDES Programs or Modifications

Today's **Federal Register** notice announces the approval of Ohio's authority to issue general permits.

IV. Review Under Executive Order 12291 and the Regulatory Flexibility Act

The Office of Management and Budget has exempted this rule from the review requirements of Executive Order 12291 pursuant to section 8(b) of that Order.

Under the Regulatory Flexibility Act, U.S. EPA is required to prepare a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. Pursuant to section 605(d) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), I certify that this State General Permit Program will not have a significant impact on a substantial number of small entities. Approval of the Ohio NPDES State general Permit Program establishes no new substantive requirements, nor does it alter the regulatory control over any industrial category. Approval of the Ohio NPDES State General Permits Program merely provides a simplified administrative process.

Dated: January 25, 1993.

David A. Ullrich,

Acting Regional Administrator.

[FR Doc. 93-3155 Filed 2-9-93; 8:45 am]

BILLING CODE 6560-50-P

[OPP-00351; FRL-4189-8]

Lawn Care Pesticide Advisory Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Under Public Law 94-409, notice is hereby given that the Office of Prevention, Pesticides, and Toxic Substances will be holding a second Lawn Care Pesticide Advisory Committee meeting on February 25-26, 1993. The purpose of this meeting, a follow-up to one held on May 12-13, 1992, is to help EPA gain further insight on lawn care pesticide issues. Topics for discussion are slated to include: Posting, notification and registries; EPA's advertising guidance; state inspections during FY-92; results from recent EPA workshops on residential post-application exposure and lawn care benefits; current congressional activity; and the need for future Advisory Committee meetings. The Advisory Committee is composed of a balanced group of participants from the lawn and garden care service industry, pesticide manufacturers and formulators, environmental and consumer advocates, congressional staff, and public sector representatives including State health and pesticide regulatory officials, and other Federal Government officials. The emphasis will be on both sharing information and experience, as well as exploring for possible Advisory Committee recommendations.

DATES: The meeting will be held on February 25, 1993 from 8:30 a.m. to 5 p.m., and on February 26, 1993 from 8:30 a.m. to 1 p.m.

ADDRESSES: The meeting will be held at Embassy Suites Hotel, 1900 Diagonal Road, Alexandria, VA (703) 684-5900.

FOR FURTHER INFORMATION CONTACT: Dr. Michael Firestone, Office of Prevention, Pesticides, and Toxic Substances, 401 M Street, SW., Washington, DC 20460, (202) 260-2897. Since space is limited, those wishing to attend as observers should contact Mrs. Marjorie Fehrenbach at (703) 305-5017.

Dated: February 3, 1993.

Victor J. Kimm,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 93-3062 Filed 2-9-93; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

Field Testing of the Proposed EBS Technology

February 3, 1993.

The Commission will be field testing proposed Emergency Broadcast System (EBS) technical (universal and optional) parameters over the next several months. The proposed standards are outlined in the FCC Notice of Proposed Rule Making/Further Notice of Proposed Rule Making, FO Docket 91-301 and 91-171, paragraphs 42 through 71. The NPRM/FNPRM was adopted by the Commission on September 17, 1992 and released on October 8, 1992.

The tests are being conducted to assure that the proposed new standards will be compatible with all technologies that deliver emergency alert information. We are recommending that several tests be conducted with at least one test in the east and one in the west of the U.S.

In order to assure representation from all sectors of the telecommunications industry, we invite equipment manufacturers, cable, broadcast stations and other interested parties to participate in these tests.

The results of the field tests will be made a part of the official docket record in the rule making proceeding. We envision that the final equipment standards would be reflective of the entire Commission record developed. Those who are interested in participating in the tests should contact the EBS Staff at (202) 632-3906.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93-3097 Filed 2-9-93; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for new FM stations:

Applicant, city and state	File No.	MM docket No.
	I.	
A. Rivertown Communications Company, Inc.; Eldon, IA.	BPH-911008ME	92-316
B. Sample Broadcasting Company, L.P.; Eldon, IA.	BPH-911010MA	
Issue heading and applicants 1. Comparative, A&B 2. Ultimate, A&B		
	II.	
A. Milford Broadcasting Co.; Milford, IA.	BPH-911003MI	92-317
B. Sharon A. Mayer; Milford, IA.	BPH-911004MG	
Issue heading and applicants 1. Comparative, A, B 2. Ultimate, A,B		

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth above. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding heading at 51 FR 19,347, May 29, 1986. The letter shown before each applicant's name, above, is used above to signify whether the issue in question applies to that particular applicant.

3. If there are any non-standardized issues in this proceeding, the full text of the issue and the applicants to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractors, Downtown Copy Center, 1114 21st

Street, NW., Washington, DC 20036 (telephone 202–452–1422).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 93–3126 Filed 2–9–93; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

The Port Authority of New York and New Jersey, et al.; Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC, Office of the Federal Maritime Commission, 800 North Capitol Street, NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200661–001.

Title: New York and New Jersey/ Maersk Container Terminal Agreement.

Parties:

The Port Authority of New York and New Jersey; Maersk Container Service Company, Inc.

Synopsis: The amendment extends the term of the Agreement between the parties until April 30, 1993.

Agreement No.: 224–200630–005.

Title: Port of New York and New Jersey/Maher Terminals, Inc., Marine Terminal Agreement

Parties:

The Port of New York and New Jersey, Maher Terminals, Inc.

Synopsis: The modification increases the space at Berth 76 at the Maher's Tripoli Street Terminal to 8.28 acres of open area. The monthly fee will be $43,570.40.

Agreement No.: 224–200630–006.

Title: Port of New York and New Jersey/Maher Terminals, Inc., Marine Terminal Agreement

Parties:

The Port of New York and New Jersey, Maher Terminals, Inc.

Synopsis: The modification increases the space at the Maher's Tripoli Street Terminal to 8 acres of open area. Maher will pay at one-time fee in the amount of $26,758.20.

Dated: February 4, 1993.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 93–3115 Filed 2–9–93; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Merle Coile; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies; Correction

This notice corrects a previous notice (FR Doc. 93-1667) published at page 5990 of the issue for Monday, January 25, 1993.

Under the Federal Reserve Bank of Chicago heading, the entry for ABC Employee Stock Ownership Plan is revised to read as follows:

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Merle Coile; Chester Eyer Employees Profit Sharing Plan; Harris Hammer; Kay Hammer; Gayle Simpsen; Jeffrey Coile; James Eckert; and Sharon Eckert, to acquire 24.19 percent of the voting shares of Anchor Bancorporation, Farmers City, Illinois, and thereby indirectly acquire Anchor State Bank, Anchor, Illinois.

Comments on this application must be received by February 24, 1993.

Board of Governors of the Federal Reserve System, February 4, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–3123 Filed 2–9–93; 8:45 am]

BILLING CODE 6210–01–F

Michigan National Corporation; Notice of Application to Engage De Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 2, 1993.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Michigan National Corporation, Farmington Hills, Michigan; to engage *de novo* through its subsidiary, Independence One Financial Institutions Consulting, Inc., Farmington, Hills, Michigan, in furnishing management consulting advice on an explicit fee basis to nonaffiliated banks and depository institutions pursuant to § 225.25(b)(11) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 4, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–3120 Filed 2–9–93; 8:45 am]

BILLING CODE 6210–01–F

Oostburg Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are

considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 5, 1993.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Oostburg Bancorp, Inc., Oostburg, Wisconsin; to become a bank holding company by acquiring 80 percent of the voting shares of Oostburg State Bank, Oostburg, Wisconsin, a *de novo* bank.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Community Bank Group, Inc., Eden Prairie, Minnesota; to merge with Cleveland Bancshares, Inc., Cleveland, Minnesota, and thereby indirectly acquire Peoples State Bank of Cleveland, Cleveland, Minnesota.

2. Oliver Bancorporation, Inc., Center, North Dakota; to acquire 100 percent of the voting shares of Security State Bank of New Salem, New Salem, North Dakota.

C. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Clear Creek Bank Corp., Idaho Springs, Colorado; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank, Idaho Springs, Colorado.

2. Northwest Sooner Bancshares, Inc., Okarche, Oklahoma; to become a bank holding company by acquiring at least 97.75 percent of the voting shares of Community National Bank of Okarche, Okarche, Oklahoma.

Board of Governors of the Federal Reserve System, February 4, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-3121 Filed 2-9-93; 8:45 am]

BILLING CODE 6210-01-F

Jon R. Stuart, et al. Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 2, 1993.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Jon R. Stuart, Tulsa, Oklahoma, to acquire an additional 7.63 percent for a total 31.31 percent; and E.R. Albert, Jr., Living Trust, Tulsa, Oklahoma, to acquire an additional 6.79 percent for a total of 26.05 percent of the voting shares of Tulbancorp, Inc., Tulsa, Oklahoma, and thereby indirectly acquire Bank of Tulsa, Tulsa, Oklahoma.

Board of Governors of the Federal Reserve System, February 4, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-3122 Filed 2-9-93; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 91D-0425]

Guideline for the Clinical Evaluation of Analgesic Drugs; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guideline entitled "Guideline for the Clinical Evaluation of Analgesic Drugs." The purpose of the guideline is to present recommended approaches to the clinical study of drugs intended to treat pain. It revises a guideline for the clinical evaluation of analgesic drugs that was issued in November 1979.

ADDRESSES: Submit written requests for single copies of the "Guideline for the Clinical Evaluation of Analgesic Drugs" to the CDER Executive Secretariat Staff (HFD-8), Center for Drug Evaluation and Research, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send two self-addressed adhesive labels to assist that office in processing your requests. Submit written comments on the guideline to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857. Requests and comments should be identified with the docket number found in brackets in the heading of this document. "Guideline for the Clinical Evaluation of Analgesic Drugs" and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Rudolph Widmark, Center for Drug Evaluation and Research (HFD-7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4250.

SUPPLEMENTARY INFORMATION: FDA is making available a revised guideline entitled "Guideline for the Clinical Evaluation of Analgesic Drugs." The revision represents an update of the guideline for studying these drug products that was originally issued in November 1979. The earlier guideline was issued under identification number HEW (FDA) 80-3093. The original guideline is hereby revoked.

The Analgesic Guideline Committee of the American Society for Clinical Pharmacology and Therapeutics suggested revisions to the agency's analgesic guideline. This guideline, as revised by FDA, was discussed with approval by FDA's Arthritis Advisory Committee in a meeting held in June 1991. FDA's guideline "General Considerations for the Clinical Evaluation of Drugs" is an important companion guideline and should be reviewed before reading the revised analgesic guideline. Both guidelines are available from the CDER Executive Secretariat Staff (address above).

The revised guideline contains recommendations for the clinical study

of analgesic drugs. A person may follow the guideline or may choose to use alternate procedures even though they are not provided for in the guideline. If a person chooses to use alternate procedures, that person may wish to discuss the matter further with the agency to prevent expenditure of money and effort on activities that may later be determined to be unacceptable by FDA. This guideline does not bind the agency, and it does not create or confer any rights, privileges, or benefits for or on any person.

Interested persons may submit written comments on the guideline to the Dockets Management Branch (address above). FDA will consider these comments in determining whether further amendments to, or revisions of, the guideline are warranted. Two copies of any comments should be submitted, except that individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of this document. The guideline and received comments may be seen in the Dockets Management Branch, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 16, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–3102 Filed 2–9–93; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 76N–0110; Desl 11802]

Adria Laboratories; Rescission of a Notice of Opportunity for Hearing Proposing to Withdraw Approval of the New Drug Application for Kaon Coated Tablets

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is rescinding a notice of opportunity for hearing proposing to withdraw approval of the new drug application (NDA) for Kaon Coated Tablets (NDA 16–287). The agency has determined that Kaon Coated Tablets have been shown to be safe for their intended use.

EFFECTIVE DATE: February 10, 1993.

FOR FURTHER INFORMATION CONTACT: Megan Foster, Center for Drug Evaluation and Research (HFD–366), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8041.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of April 6, 1976 (41 FR 14568), FDA offered an opportunity for hearing, proposing to withdraw approval of certain NDA's for oral potassium salt drug products intended for prophylaxis or treatment of potassium depletion. This action was taken on the basis of new reports of small-bowel lesions associated with the use of these products and because of the availability of alternative methods for prophylaxis or treatment of potassium depletion. Kaon Coated Tablets, manufactured by Warren-Teed Pharmaceuticals, Inc. (now known as Adria Laboratories), was included in this notice.

In response to this notice, Warren-Teed requested a hearing, arguing that Kaon Coated Tablets were not enteric-coated, and that adverse drug experience (ADE) reports showed a rate of small-bowel ulceration that was far lower than the ulceration rates of the enteric-coated potassium chloride products, and that animal studies show that it was less ulcerogenic than enteric-coated potassium chloride. FDA has reviewed the material submitted in Warren-Teed's hearing request, additional submissions by the firm, and all ADE reports concerning Kaon Coated Tablets, and concludes that Kaon Coated Tablets have been shown to be safe for their intended use. Accordingly, the April 6, 1976, notice of opportunity for hearing proposing to withdraw approval of Kaon Coated Tablets is rescinded. Approval of all of the other products covered by the 1976 notice of opportunity for hearing has previously been withdrawn.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505 (21 U.S.C. 352, 355)) and under the authority delegated to the Director, Center for Drug Evaluation and Research (21 CFR 5.82).

Dated: January 23, 1993.

Carl C. Peck,

Director, Center for Drug Evaluation and Research.

[FR Doc. 93–3136 Filed 2–9–93; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 92E–0375]

Determination of Regulatory Review Period for Purposes of Patent Extension; NORVASC®; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the notice of its determination of the regulatory review period for purposes of patent extension for NORVASC® (amlodipine besylate) that appeared in the **Federal Register** of November 19, 1992 (57 FR 54600). The document was published with some inadvertent errors. The document stated, "Of this time, 1,630 days occurred during the testing phase of the regulatory review period, while 1,683 days occurred during the approval phase." It should have stated, "Of this time, 1,629 days occurred during the testing phase of the regulatory review period, while 1,684 days occurred during the approval phase." In addition, the document stated, "NDA 19–787 was submitted on December 23, 1987." It should have stated, "NDA 19–787 was submitted on December 22, 1987." This document corrects those errors.

FOR FURTHER INFORMATION CONTACT: Nicholas P. Reuter, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

In FR Doc. 92–28013, appearing on page 54600 in the **Federal Register** of November 19, 1992, the following corrections are made:

1. On page 54601, in the 1st column, in the 2d complete paragraph, in line 4, "1,630" is corrected to read "1,629"; and in line 6, "1,683" is corrected to read 1,684".

2. On page 54601, in the 1st column, in the 4th complete paragraph, in lines 5 and 11, "December 23, 1987" is corrected to read "December 22, 1987."

The total regulatory review period determination of 3,313 days that was announced in the November 19, 1992, notice remains unchanged by this correction.

Dated: February 3, 1993.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 93–3135 Filed 2–9–93; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 93D–0025]

Target Animal and Human Food Safety, Drug Efficacy, Environmental and Manufacturing Studies for Anti-Infective Bovine Mastitis Products; Draft Guideline; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guideline entitled "Guideline for Target Animal and Human Food Safety, Drug Efficacy, Environmental and Manufacturing Studies for Anti-Infective Bovine Mastitis Products." The guideline

provides sponsors with general procedures for collecting the aforementioned data and information. FDA invites interested persons to submit written comments on this draft guideline.

DATES: Written comments by April 12, 1993.

ADDRESSES: Submit written requests for single copies of the draft guideline to the Communications and Education Branch (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send two self-addressed adhesive labels to assist that office in processing your requests. Submit written comments on the draft guideline to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. Requests and comments should be identified with the docket number found in brackets in the heading of this document. A copy of the draft guideline and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: William J. Baker, Center for Veterinary Medicine (HFV–133), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8652.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a draft guideline entitled "Guideline for Target Animal and Human Food Safety, Drug Efficacy, Environmental and Manufacturing Studies for Anti-infective Bovine Mastitis Products." Sponsors of new animal drug applications (NADA's) including applications for drug products containing anti-infective bovine mastitis substances are required to furnish FDA with target animal and human food safety, drug effectiveness, and manufacturing and control data and information necessary to support their submissions. This information is required by section 512(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(b)), and is generally described in 21 CFR 514.1 for NADA's, 21 CFR 514.8 for supplements to approved NADA's, and 21 CFR parts 210 and 211 for the manufacturing process to meet current good manufacturing practice requirements for pharmaceutical dosage forms. The regulations at 21 CFR part 25 describe the environmental data that is required for applications to comply with the National Environmental Policy Act. The draft guideline provides sponsors with general procedures that may be followed to collect the required data and information. When the draft guideline is finalized, it will supersede the existing "Guideline for Anti-infective Bovine Mastitis Product Development" whose availability was announced in the Federal Register of July 18, 1985 (50 FR 29269).

Guidelines state procedures or practices that may be useful to the persons to whom they are directed, but are not legal requirements. Guidelines represent the agency's position on a procedure or a practice at the time of their issuance. A person may follow a guideline or may choose to follow alternate procedures or practices. If a person chooses to use alternate procedures or practices, that person may wish to discuss the matter further with the agency to prevent an expenditure of money and effort on activities that may later be determined to be unacceptable to FDA. A guideline does not bind the agency, and it does not create or confer any rights, privileges, or benefits for or on any person. When a guideline states a requirement imposed by statute or regulation, however, the requirement is law and its force and effect are not changed in any way by virtue of its inclusion in the guideline.

Interested persons may, on or before April 12, 1993, submit to the Dockets Management Branch (address above) written comments on the draft guideline. Additional comments will be considered in determining whether future amendments to, or revisions of, the guideline are warranted. Comments should be submitted in duplicate (except that individuals may submit one copy), identified with the docket number found in brackets in the heading of this document. The guideline and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 4, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–3133 Filed 2–9–93; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 93D–0026]

Target Animal and Human Food Safety, Drug Efficacy, Environmental and Manufacturing Studies for Teat Antiseptic Products; Draft Guideline; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guideline entitled "Guideline for Target Animal and Human Food Safety, Drug Efficacy, Environmental and Manufacturing Studies for Teat Antiseptic Products." The guideline provides sponsors with general procedures for collecting the aforementioned data and information. FDA invites interested persons to submit written comments on this draft guideline.

DATES: Written comments by April 12, 1993.

ADDRESSES: Submit written requests for single copies of the draft guideline to the Communications and Education Branch (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send two self-addressed adhesive labels to assist that office in processing your requests. Submit written comments on the draft guideline to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. Requests and comments should be identified with the docket number found in brackets in the heading of this document. A copy of the draft guideline and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Thomas J. Jacobs, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8648.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a draft guideline entitled "Guideline for Target Animal and Human Food Safety, Drug Efficacy, Environmental and Manufacturing Studies for Teat Antiseptic Products." Sponsors of new animal drug applications (NADA's) including applications for drug products containing teat antiseptic substances are required to furnish FDA with target animal and human food safety, drug effectiveness, and manufacturing and control data and information necessary to support their submissions. This information is required by section 512(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(b)), and is generally described in 21 CFR 514.1 for NADA's, 21 CFR 514.8 for supplements to approved NADA's, and 21 CFR parts 210 and 211 for the manufacturing process to meet current good manufacturing practice requirements for pharmaceutical dosage forms. Part 25 (21 CFR part 25) describes the environmental data that is required for applications to comply with the National Environmental Policy Act. The

draft guideline provides sponsors with general procedures that may be followed to collect the required data and information.

Guidelines state procedures or practices that may be useful to the persons to whom they are directed, but are not legal requirements. Guidelines represent the agency's position on a procedure or a practice at the time of their issuance. A person may follow a guideline or may choose to follow alternate procedures or practices. If a person chooses to use alternate procedures or practices, that person may wish to discuss the matter further with the agency to prevent an expenditure of money and effort on activities that may later be determined to be unacceptable to FDA. A guideline does not bind the agency, and it does not create or confer any rights, privileges, or benefits for or on any person. When a guideline states a requirement imposed by statute or regulation, however, the requirement is law and its force and effect are not changed in any way by virtue of its inclusion in the guideline.

Interested persons may, on or before April 12, 1993, submit to the Dockets Management Branch (address above) written comments on the draft guideline. Additional comments will be considered in determining whether future amendments to, or revisions of, the guideline are warranted. Comments should be submitted in duplicate (except that individuals may submit one copy), identified with the docket number found in brackets in the heading of this document. The guideline and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 4, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93-3134 Filed 2-9-93; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID-050-4320-03]

Shoshone District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management (BLM), Interior.

SUMMARY: This notice sets forth the schedule and proposed agenda for a meeting of the Shoshone District Grazing Advisory Board.

EFFECTIVE DATES: Wednesday, March 24, 1993, at 9 a.m.

ADDRESSES: BLM Shoshone District Office, 400 West F Street, Shoshone, ID 83352.

FOR FURTHER INFORMATION CONTACT: Mary C. Gaylord, District Manager, Shoshone District Office, P.O. Box 2-B, Shoshone, ID 83352. Telephone (208) 886-2206.

SUPPLEMENTARY INFORMATION: The proposed agenda for the meeting includes (1) drought discussion, (2) Animal Damage Control program, (3) Bennett Hills RMP update, (4) fire rehabilitation progress, (5) grazing schedules for 1992 fire areas, (6) sheep bedground policy, and (7) disbursement of Advisory Board funds.

Operation and administration of the Board will be in accordance with the Federal Advisory Committee Act of 1972 (Pub. L. 92-463; 5 U.S.C. appendix 1) and Department of the Interior regulations, including 43 CFR part 1784.

The meeting will be open to the public. Anyone may present an oral statement between 11 a.m. and 12 noon, or may file a written statement regarding matters on the agenda. Oral statements will be limited to ten minutes. Anyone wishing to make an oral statement should notify the District Manager by Monday, March 22, 1993. Records of the meeting will be available in the Shoshone District Office of public inspection or copying within 30 days after the meeting.

Dated: February 2, 1993.

Janis L. VanWyhe,

Associate District Manager.

[FR Doc. 93-3144 Filed 2-9-93; 8:45 am]

BILLING CODE 4310-GG-M

Fish and Wildlife Service

Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT-775332.

Applicant: White Oak Conservation Center, Yulee, FL.

The applicant requests a permit to import one captive-bred female maned wolf (*Chrysocyon brachyurus*) from Norden's Ark, Sweden for enhancement of propagation and survival of the species.

PRT-775687.

Applicant: Roy Hess, Pensacola, FL.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*), culled from the captive-herd maintained by the Ciskei Government, Tsolwana Game Reserve, Tarkastad, Republic of South Africa, for the purpose of enhancement of survival.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203. Phone: (703/358-2104); FAX: (703/358-2281).

Dated: February 5, 1993.

Susan Jacobsen,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 93-3124 Filed 2-9-93; 8:45 am]

BILLING CODE 4310-55-M

Receipt of Application for Permit

The public is invited to comment on the following application for a permit to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*, the Endangered Species Act of 1973, as amended (U.S.C. 1531, *et seq.*) and the regulations governing marine mammals and endangered species (50 CFR parts 17 and 18).

PRT-775336.

Applicant: U.S. Fish and Wildlife Service Ecological Services—Region 1, Portland, OR.

Type of Permit: Scientific Research and Enhancement of Survival and Recovery.

Name and Number of Animals: Southern Sea Otter (*Enhydra lutris nereis*).

Up to 150 individuals of both sexes will be captured. No pregnant females, pups, or sea otters less than 18 pounds will be captured except in emergency situations.

Summary of Activity to be Authorized: The applicant requests a permit to take (capture, tag, implant transponder chip, collect blood, drug, extract pre-molar) to monitor movement, natality, mortality, health parameters and diseases for purposes of injury assessment in case of an oil spill or other potentially harming event or emergency and to aid in the recovery of

the species. Up to 75 sea otters may be recaptured for retagging or health checks.

Source of Marine Mammals for Research: Wild sea otters located between Pillar Point south to Point Conception off the coast of California.

Period of Activity: From 1993 to December 1977.

Concurrent with the publication of this notice in the **Federal Register**, the Office of Management Authority is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Written data or comments, requests for copies of the complete application, or requests for a public hearing on this application should be submitted to the Director, Office of Management Authority (OMA), 4401 N. Fairfax Dr., room 432, Arlington, VA 22203 and must be received by the Director within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such hearing is at the discretion of the Director.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, OMA, 4401 North Fairfax Drive, Room 432, Arlington, VA 22203. Phone: (1–800–358–2104); Fax: (703/358–2281).

Dated: February 5, 1993.

Susan Jacobsen,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 93–3125 Filed 2–9–93; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

Gauley River National Recreation Area Advisory Committee; Meeting

AGENCY: National Park Service; Gauley River National Recreation Area Advisory Committee.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Gauley River National Recreation Area Advisory Committee. Notice of this meeting is required under the Federal Advisory Committee Act.

DATES: March 15, 1993—7 p.m.

ADDRESSES: Nicholas County Veterans Memorial Park—dining hall. (North of Summersville on U.S. Rt. 19, adjacent to/just south of Nicholas County High School property)

FOR FURTHER INFORMATION CONTACT: Joe L. Kennedy, Superintendent, New River Gorge National River, P.O. Box 246, Glen Jean, WV 25846; (304) 465–0508.

SUPPLEMENTARY INFORMATION: The Advisory Committee was established under section 206(a) of the "WV National Interest Act of 1987," Public Law 100–534, to consult with the Secretary of the Interior, or his designee, "* * * on matters relating to development of a management plan for the recreation area and on implementation of such plan."

The agenda for this meeting will focus on the presentation of a written report from the Advisory Committee to the NPS on recommendations for the Draft General Management Plan (GMP) for the NRA. The final report will be included in the draft and final versions of the GMP, which is scheduled to go on public review in June, 1993. Copies of the committee's report will be available to the public at this meeting. Copies of the draft GMP will not be available to the public until the formal public review process begins in June, 1993.

The meeting will be open to the public. Any member of the public may file with the Committee a written statement concerning agenda items. The statement should be addressed to the Gauley River National Recreation Area Advisory Committee, P.O. Box 57, Glen Jean, WV 25846–0057. Minutes of the meeting will be available for inspection four weeks after the meeting, at the permanent headquarters of the New River Gorge National River, 104 Main Street, P.O. Box 246, Glen Jean, WV 25846–0246.

John J. Reynolds,

Regional Director, Mid-Atlantic Region

[FR Doc. 93–3148 Filed 2–9–93; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32236]

Carey Short Line Corp.—Acquisition and Operation Exemption—Consolidated Rail Corp.; Exemption

Carey Short Line Corporation (CSLC), a noncarrier, has filed a notice of exemption to acquire and operate approximately 1 mile of rail line owned by the Consolidated Rail Corporation (Conrail). The line, known as the Carey Industrial Track, extends from milepost ±49.50 to milepost ±48.50 in Crawford and Carey Townships, Wyandot County, OH.[1] The parties intended to consummate the transaction after January 26, 1993, the effective date of the notice.

Any comments must be filed with the Commission and served on Clark Evans Downs, Jones, Day, Reavis & Pogue, 1450 G Street, NW., Washington, DC 20005.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: February 4, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–3150 Filed 2–9–93; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 32235]

Consolidated Rail Corp.—Trackage Rights Exemption—Carey Short Line Corp.; Exemption

Carey Short Line Corporation (CSLC) has agreed to grant local trackage rights to Consolidated Rail Corporation (Conrail) over the approximately 1.0-mile Carey Industrial Track, including sidings and industrial sidetracks, between the connection between CSLC and CSX Transportation, Inc. at milepost #49.50 and the end of the segment at milepost #48.50, at Carey, in Wyandot County, OH.[1] The trackage rights were to become effective on January 29, 1993.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Charles E. Mechem, Two Commerce Square—16A, 2001 Market Street, Philadelphia, PA 19101–1416.

[1] CSLC has agreed to grant local trackage rights to Conrail over the subject line. See Finance Docket No. 32235, Consolidated Rail Corp.—Trackage Rights Exemption—Carey Short Line Corp. The trackage rights were to become effective on January 29, 1993.

[1] On January 19, 1993, CSLC filed a notice of exemption under 49 CFR 1150.31 for its acquisition of the Carey Industrial Track from Conrail. See Finance Docket No. 32236, Carey Short Line Corp.—Acquisition and Operation Exemption—Consolidated Rail Corp. Line in Wyandot County, OH. The parties intended to consummate the acquisition transaction after January 26, 1993, the effective date of that notice.

As a condition to the use of this exemption, any employees adversely affected by the trackage rights will be protected pursuant to Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980).

Decided: February 4, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93-3149 Filed 2-9-93; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with 28 CFR 50.7, notice is hereby given that a proposed partial consent decree in *United States* v. *Board of Education, et al.*, Civil Action No. 89-0856 was lodged on January 14, 1993 with the United States District Court for the Eastern District of New York. Defendant, Board of Education, owns or leases and operates schools in the City of New York. Defendant, Jack's Insulation Contracting Corp. (Jack's), is a corporation which performed renovation activities within the meaning of 40 CFR 61.141 on numerous of the school facilities owned, leased, or operated by the Board of Education. By virtue of performing these renovation activities, Jack's is also an owner or operator of these school facilities within the meaning of 40 CFR 61.02. Both the Board of Education and Jack's violated 40 CFR and the Clean Air Act by undertaking renovation activities at school facilities without notifying the Environmental Protection Agency (EPA) that they were going to do so. Jack's also violated sections 113 and 114 of the Clean Air Act by failing to respond in a timely manner to EPA's section 114 information request and by failing to comply with an Administrative Order issued by EPA.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Board of Education, et al.*, D.J. reference #90-5-2-1-1-1300.

The proposed consent decree may be examined at the Office of the United States Attorney for the Eastern District of New York, 1 Pierrepont Plaza, 11th Floor, Brooklyn, New York 11201; the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278; and at the Consent Decree Library, 601 Pennsylvania Avenue NW., Washington, DC 20024, (202) 347-7829. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $2.75 (25 cents per page reproduction costs) payable to Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 93-3143 Filed 2-9-93; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Danto Environmental Corporation, et al.*, Civil Action No. C87-1752, was lodged on December 29, 1992, with the United States District Court for the Northern District of Ohio. The decree resolves claims against Danto Environmental Corporation (the "Company") and Harold N. Danto, the Company's president and principal owner, for violations of section 112(c) of the Clean Air Act, 42 U.S.C. 7412(c), and the National Emission Standards for Hazardous Air Pollutants for asbestos, 40 CFR 61, Subpart M (the "asbestos NESHAP"), during asbestos removal projects at facilities in Cleveland and Canton, Ohio. The decree requires that Danto and the Company comply with the notification and work-practice requirements of the asbestos NESHAP and implement an asbestos-management program.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Chief, Environmental Enforcement Section, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Danto Environmental Corporation*, D.J. reference #90-5-2-1-1046.

The proposed consent decree may be examined at the Office of the United States Attorney for the Northern District of Ohio, Suite 500, 1404 Ninth Street, Cleveland, Ohio 44144; the Region V Office of the Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC (20005) 202-624-0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC (20005). In requesting a copy, please enclose a check in the amount of $5.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 93-3139 Filed 2-9-93; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Partial Consent Decree for Claims Under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on January 4, 1993, a proposed Partial Consent Decree in *United States* v. *Smuggler-Durant Mining Corporation, et al.*, Civil Action No. 89-C-1802, was lodged with the United States District Court for the District of Colorado. This action was brought under section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. 9601 *et seq.*, against Smuggler Durant Mining Corporation of New York, Inc., Hunter Creek Management, Inc., Smuggler Racquet Club, Inc., Smuggler Limited, Inc., Centennial-Aspen, Centennial-Aspen 2, World Class Housing, Inc., Atlantic Richfield Company, MAXXAM, Inc., Top of Aspen, Inc. and Pitkin County, alleged current and former owners or operators of facilities at which there has been a release or threat of release of hazardous substances into the environment at the Smuggler Mountain Superfund Site in and adjacent to Aspen, Colorado ("the Site"). The United States seeks recovery of response costs incurred and to be incurred by the United States in connection with the clean up of the Site.

The proposed Partial Consent Decree resolves the claims of the United States against Smuggler Racquet Club, Inc., ("SRC"). Under the proposed decree, SRC agrees to pay the United States $8,000 for past and future response costs, provide property at the Site to be used as a soil repository, provide for maintenance and inspection of the soil repository, and provide a covenant not to sue the United States for any activities conducted at the Site by any instrumentality of the United States.

The proposed decree provides SRC a covenant not to sue for past and future response costs or response actions under sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a), and section 7003 of RCRA, 42 U.S.C. 6973.

The Department of Justice will receive comments relating to the proposed Partial Consent Decree for a period of thirty days from the date of this publication. Comments should be addressed to the Acting Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States v, Smuggler-Durant Mining Corporation, et al.*, DOJ Ref. No. 90–11–2–174.

The proposed Partial Consent Decree may be examined at the Environment and Natural Resources Division, Department of Justice Filed Office, Suite 945, 999 18th Street—North Tower, Denver, Colorado 80202 and at the Region VIII Office of the Environmental Protection Agency, 999 18th Street, Suite 500, Denver, Colorado 80202. Copies of the proposed Partial Consent Decree may also be examined at or obtained by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005 (202–624–0892). When requesting a copy of the consent decree by mail, please enclose a check in the amount of $25 for the decree (additional charges may apply if attachments are requested) (twenty-five cents per page reproduction costs) payable to the "Consent Decree Library."

John C. Cruden,

Chief, Environmental Enforcement Section.

[FR Doc. 93–3140 Filed 2–9–93; 8:45 am]

BILLING CODE 4410–01–M

Immigration and Naturalization Service

[AG Order No. 1682–93]

Extension of Designation of Liberia Under Temporary Protected Status Program

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: This notice extends, until March 28, 1994, the Attorney General's designation of Liberia under the Temporary Protected Status program provided for in section 244A of the Immigration and Nationality Act (Act). Accordingly, eligible aliens who are nationals of Liberia, or who have no nationality and who last habitually resided in Liberia, may apply for Temporary Protected Status and authorization to engage in employment.

EFFECTIVE DATES: This designation is effective on March 28, 1993, and will remain in effect until March 28, 1994.

FOR FURTHER INFORMATION CONTACT: Kathryn A. Kazalonis, Senior Immigration Examiner, Immigration and Naturalization Service, room 7223, 425 I Street, NW., Washington, DC 20536, telephone (202) 514–5014.

SUPPLEMENTARY INFORMATION: Under section 244A of the Act, as amended by section 302(a) of Pub. L. 101–649 and section 304(b) of Pub. L. 102–232, (8 U.S.C. 1254a), the Attorney General is authorized to grant Temporary Protected Status in the United States to eligible aliens who are nationals of a foreign state designated by the Attorney General, or who have no nationality and last habitually resided in that state. The Attorney General so designates a state, or a part thereof, upon finding that the state is experiencing ongoing armed civil strife, environmental disaster, or certain other extraordinary and temporary conditions.

On March 21, 1991, the Attorney General designated Liberia for Temporary Protected Status for a period of 12 months. 56 FR 12746. On January 20, 1992, the Attorney General extended the designation of Liberia under the Temporary Protected Status program for an additional 12 months until March 28, 1993. 57 FR 2932.

This notice extends the designation of Liberia under the Temporary Protected Status program for an additional 12 months, in accordance with sections 244A(b)(3) (A) and (C) of the Act. This notice also gives notice of procedures with which eligible aliens who are nationals of Liberia, or who have no nationality and last habitually resided in Liberia, must comply in applying for Temporary Protected Status or continuation of that status.

Notice of Extension of Designation of Liberia Under Temporary Protected Status Program

By the authority vested in me as Attorney General under section 244A of the Immigration and Nationality Act, and pursuant to sections 244A(b)(3) (A) and (C) of the Act, I find that there still exist extraordinary and temporary conditions in Liberia that prevent aliens who are nationals of Liberia, and aliens having no nationality who last habitually resided in Liberia, from returning to Liberia in safety, as a result of the continued armed conflict in that nation. I further find that permitting nationals of Liberia, and aliens having no nationality who last habitually resided in Liberia, to remain temporarily in the United States is not contrary to the national interest of the United States. Accordingly, it is ordered as follows:

(1) The designation of Liberia under section 244A(b) of the Act is extended for an additional 12-month period from March 28, 1993, to March 28, 1994.

(2) I estimate that there are no more than 5000 Liberian nationals (and aliens having no nationality who last habitually resided in Liberia), currently in nonimmigrant or unlawful status, who are eligible for Temporary Protected Status.

(3) An application for Temporary Protected Status during the extended period of designation provided by this notice must be filed pursuant to the provisions of 8 CFR part 240.

(4) A national of Liberia, or an alien having no nationality who last habitually resided in Liberia, who received a grant or extension of Temporary Protected Status during the extended period of designation from March 28, 1992, to March 28, 1993, must comply with the requirements of 8 CFR 240.17, which are described in relevant part in paragraphs (5) through (7) of this notice.

(5) A national of Liberia, or an alien having no nationality who last habitually resided in Liberia, who previously has been granted Temporary Protected Status must file a new Application for Temporary Protected Status, Form I–821, together with an Application for Employment Authorization, Form I–765, within the 30-day period prior to March 28, 1993, in order to be eligible for Temporary Protected Status during the period between March 28, 1993, and March 28, 1994.

(6) An Application for Temporary Protected Status, Form I–821, filed during the period of extended designation by a national of Liberia or an alien having no nationality who last habitually resided in Liberia, who previously has been granted Temporary Protected Status, will be without fee.

(7) The fee prescribed in 8 CFR 103.7(b)(1) will be charged for each Application for Employment Authorization, Form I–765, filed by an alien requesting employment authorization pursuant to the provisions of paragraph (5) of this notice. An alien who does not request employment authorization must file Form I–765 together with Form I–821 for information purposes, but in such cases Form I–765 will be without fee.

(8) Pursuant to section 244A(b)(3)(A) of the Act, the Attorney General shall review, at least 60 days before March 28,

1994, the designation of Liberia under the Temporary Protected Status program to determine whether the conditions for designation continue to exist. Notice of that determination, including the basis for the determination, shall be published in the **Federal Register**.

(9) Information concerning Temporary Protected Status for nationals of Liberia, and aliens who last habitually resided in Liberia, will be available at local Immigration and Naturalization Service offices upon publication of this notice.

Dated: January 27, 1993.

Stuart M. Gerson,

Acting Attorney General.

[FR Doc. 93-3142 Filed 2-9-93; 8:45 am]

BILLING CODE 4410-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste; Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 51st meeting on Wednesday, Thursday and Friday, February 24, 25 and 26, 1993, 8:30 a.m. until 6 p.m., room P-110, 7920 Norfolk Avenue, Bethesda, MD. Notice of this meeting was published in the **Federal Register** on Thursday, January 21, 1993 (58 FR 5426).

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

A. Meet with the Commission to discuss items of mutual interest.

B. Briefing on Standards of Ethical Conduct for Employees of the Executive Branch.

C. Discuss computer models for conducting performance assessments of low-level radioactive waste disposal facilities.

D. Discuss an assessment of the flammability and explosion potential of transuranic waste.

E. Discuss the acceptance of scientific evidence based primarily on expert judgment in an adjudicatory review.

F. Explore the creation of a performance indicator or event reporting system that would monitor the current status and trends in the management and disposal of low-level radioactive waste.

G. Review with the NRC staff possible impacts the Energy Policy Act of 1992 might have on ongoing agency initiatives in the high-level waste arena (tentative).

H. Discuss anticipated and proposed Committee activities, future meeting agenda, administrative, and organizational matters, as appropriate. Also, discuss matters and specific issues that were not completed during previous meetings as time and availability of information permit.

Procedures for the conduct of and participation in ACNW meetings were published in the **Federal Register** on June 6, 1988 (53 FR 20699). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and staff. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the ACNW Chairman. The office of the ACRS is providing staff support for the ACNW. Persons desiring to make oral statements should notify the Executive Director of the Office of the ACNW/ACRS as far in advance as practical so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the Executive Director of the Office of the ACNW/ACRS (telephone 301/492-4516), prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACNW/ACRS Executive Director or call the recording (301/492-4600) for the current schedule if such rescheduling would result in major inconvenience.

Dated: February 4, 1993.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 93-3119 Filed 2-9-93; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-275 and 50-323]

Pacific Gas and Electric Co.; Diablo Canyon Nuclear Power Plant, Units 1 and 2; Issuance of Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission or the NRC) is considering issuance of an amendment to Facility Operating License Nos. DPR-80 and DPR-82, issued to Pacific Gas and Electric Company (PG&E, the licensee), for operation of the Diablo Canyon Power Plant (DCPP), Units 1 and 2, located in San Luis Obispo County, California.

Environmental Assessment

Identification of Proposed Action

Diablo Canyon Power Plant, Units, Units 1 and 2 are currently licensed for operation for 40 years commencing with the issuance of the construction permits. The operating licenses expire on April 23, 2008, for Unit 1 and on December 9, 2010, for Unit 2. By letter dated July 9, 1992, the licensee requested that the DCPP operating license expiration dates be extended to September 22, 2021, for Unit 1, and to April 26, 2025, for Unit 2 or 40 years after the date of the issuance of the "low-power" operating licenses.

The Need for the Proposed Action

The proposed change to the license would allow the licensee to operate DCPP, Units 1 and 2, for 40 years from the date of the issuance of the operating licenses, thus recapturing the construction period. This extension would also permit the plant to operate for the full 40-year design basis lifetime, consistent with previously stated Commission policy (Memorandum dated August 16, 1982, from William J. Dircks, Executive Director for Operations, to the Commissioners) and as evidenced by the issuance for over 50 similar extensions to other licensees.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revision and concludes that the extension of Diablo Canyon's Operating License Nos. DPR-80 and DPR-82 will not create any new or unreviewed environmental impacts. This change does not involve any physical modifications, and there are no new or unreviewed environmental impacts that were not considered as part of the Final Environmental Statement (FES) dated May 1973, relating to operation of the DCPP, Units 1 and 2. Evaluations for the FES considered a 40-year operating life.

The considerations involved in completing the Commission's evaluation for the proposed amendment are discussed below.

1. Radiological Impacts of the Hypothetical Design Basis Accident

The offsite exposure from releases during postulated accidents has been previously evaluated in the DCPP Final Safety Analysis Report (FSAR) Update. The results are acceptable when compared with the criteria defined in 10 CFR Part 100. This type of evaluation is a function of four parameters: (1) The

types of accidents postulated, (2) the radioactivity release calculated for each accident, (3) the assumed meteorological conditions, and (4) the population distribution versus distance from the plant. The staff has concluded that neither the types of accidents nor the calculated radioactivity releases will change through the proposed 40-year operating license terms. Furthermore, the site meteorology as defined in the FSAR Update is essentially constant and consideration herein is therefore unwarranted. Thus, population size and distribution is the only time-dependent parameter. The population size and distribution in the vicinity of the plant have been reviewed several times since the construction permit was issued. The California Department of Finance projections indicated that a compound average growth rate of 2.15 percent is expected for the 50-mile radius around Diablo Canyon through the year 2025. There is no expected change in land usage during the license terms that would affect offsite dose calculations. The population projections are presented in Figure 1, "Summary of Population Projections for the Diablo Canyon Vicinity," taken from the licensee's July 9, 1992 letter.

The changes projected for the population distribution through 2025 will not significantly impact any accident analysis previously calculated. Furthermore, the current exclusion area boundary, Low Population Zone (LPZ), and nearest population center distance will continue to meet the requires of 10 CFR 100.11(a) for the proposed 40-year license terms. Accordingly, we conclude that the proposed license amendment will not significantly change previous conclusions on the potential environmental effects of offsite releases from postulated accidents.

The Commission stated in its proposed no significant hazards consideration (57 FR 32575) dated July 22, 1992, that the request change in expiration dates is consistent with current NRC policy and the originally engineered design life of the plant, i.e., 40 years of operation. Due to design conservatism, maintenance and surveillance programs, inspection programs and the Plant Technical Specifications, the proposed additional thirteen and fifteen years of operation for DCPP Units 1 and 2 will have no significant impact on safety. That is, regardless of the age of the facility, the above mentioned programs and Technical Specifications ensure that components, systems and structures will be refurbished or replaced to maintain their requisite safety function over 40 years of operation.

2. Radiological Impacts of Annual Releases

a. Onsite Doses

The DCPP occupational (onsite) exposure trend and magnitude as compared with the industry's average pressurized water reactor (PWR) site, based on 3-year average annual exposures in terms of person-rem per reactor unit, is shown in Figure 2, "Diablo Canyon vs. INPO Industry Goal Average Annual Occupational Exposure," taken from the licensee's July 9, 1992 letter. The data in Figure 2 indicate that the licensee has implemented a successful program under 10 CFR part 50, appendix I "As Low as Reasonably Achievable" (ALARA) guidelines. Figure 2 also shows the projected occupational exposure averages per unit through the year 2000. Given the licensee's continued implementation of its ALARA program and DCPP's historical occupational exposure, we conclude that the occupational exposures used in Figure 2 serve as a realistic estimate through the proposed 40-year period of operation. These projected exposures are significantly less than the 450 person-rem per year per unit values estimated in the FES Addendum for Diablo Canyon. Occupational exposures resulting from the proposed 40-year operating license terms will remain well within the limits of 10 CFR part 20.

b. Offsite Doses

Appendix I guidelines on ALARA were briefly discussed above in regard to onsite doses; these guidelines also apply to releases that could cause offsite doses. In addition, routine releases to the environment are governed by 10 CFR 20.1(c), which states that such releases should be as low as reasonably achievable. Appendix I is more explicit in that it establishes radioactive design/dose objectives for liquid and gaseous offsite releases including iodine/particulate radionuclides. Figure 3, "Comparison of Offsite Appendix I Radiation Exposure Limits and Actual Data," provides a comparison of appendix I limits with consolidated plant operating data. This figure is derived from the licensee's letter of July 9, 1992. A review of the values in Figure 3 indicates that the actual performance of the plant to control and limit liquid and gaseous radioactive releases has been well within the appendix I limits.

Based on the continued operation of the plant's existing Waste Processing System, we conclude that the anticipated offsite doses during the period covered by the proposed license amendment would remain a fraction of 10 CFR part 50, appendix I limits. The projected exposures are also well within the offsite exposures estimated by the NRC in the Diablo Canyon's FES. Furthermore, the plant's contribution to the local population dose within a 50-mile radius is expected to remain insignificant in comparison to that from background radiation.

The DCPP Radiological Environmental Monitoring Program was established prior to the start of plant operation to determine preoperational background levels. The Radiological Environmental Monitoring Program is designed to validate the adequacy of safeguards inherent in plant design and the effectiveness of dose calculations, based on plant emission data and appropriate meterological and aquatic dispersion models. Emphasis is placed on control at the source, with follow-up and confirmation by environmental surveillance. This is accomplished by continuously measuring radiation levels and airborne radioactivity levels and periodically measuring amounts of radioactivity in samples at various locations surrounding the plant. To ensure that the program continues to include environmental sample locations most likely to detect plant-related radioactivity, a land-use census is conducted annually. Changes in milk sampling locations may be required following the census based on relative potential doses or dose commitments and the availability of samples. Continued environmental monitoring and surveillance under this program ensures early detection of any increase in exposures over the proposed 40-year operating license terms.

The volume of solid low level radioactive waste generated at DCPP has historically been among the lowest in the nuclear power industry. In addition, the licensee has committed to further reduce the amount generated in future years.

We conclude that the releases from DCPP, both onsite and offsite, have remained within the bounds of the FES and have complied with the applicable portions of 10 CFR parts 20 and 50, as discussed above. As a consequence, we would expect releases during the proposed license extension period to remain within these bounds.

3. Environmental Impact of the Uranium Fuel Cycle

Each Diablo Canyon reactor contains 193 fuel assemblies. The assemblies consist of fuel rods in a 17×17 array. About 39 to 46 percent of the fuel assemblies are replaced every refueling. Since issuance of the operating licenses PG&E has adopted several fuel design

changes and improved fuel management schemes. These changes have significantly improved uranium utilization.

The fuel parameters meet 10 CFR 51.52(a)(2), except for fuel enrichment, which may be as much as 0.5 weight percent higher in the DCPP fuel rods. The environmental effects of extended fuel burnup and higher initial enrichment are addressed by the NRC in a "Notice of Environmental Assessment and Finding of No Significant Impact" published in the **Federal Register** on February 29, 1988 (53 FR 6040). This notice stated that the NRC's environmental assessment of extended fuel burnup and higher enrichment fuel is complete, and that the environmental impacts summarized in Tables S–3 of 10 CFR 51.51 and S–4 of 10 CFR 51.52 bound the corresponding impacts for burnup levels up to 60 gigawatt-days/metric ton uranium and enrichments up to 5 weight percent U–235.

In the Diablo Canyon FES, it was assumed for purposes of estimating the amount of uranium required that the plant would operate for 40 years with an 80 percent capacity factor. It was further assumed that the units would be refueled on approximately an annual basis. Since the Diablo Canyon units are refueled approximately every 18 months and improvements in uranium utilization have been made, the total amount of uranium required for the proposed 40-year operating license terms is expected to be less than the amount projected in the FES.

The environmental impacts, both radiological and nonradiological, attributable to the transportation of fuel and waste to and from plant sites, with respect to normal conditions of transport and possible accidents in transport, have been assessed in several generic environmental impact statements. The assessments represent the contribution of such transportation to annual environmental costs including dose per reactor year to exposed transportation workers and to the general public. These annual environmental costs, which are displayed in Table S–4 of 10 CFR 51.52, would not be changed by the extended period of operation.

Based on the above, we conclude that there are no significant changes in the environmental impact related to the uranium fuel cycle due to the proposed extended operation of DCPP.

4. Nonradiological Impacts

The major nonradiological impact of the plant on the environment is the operation of the plant's cooling water system. The DCPP cooling water system is a once-through system discharging directly into Diablo Cove of the Pacific Ocean. The potential ecological effects of the cooling water system are: (1) Those resulting from elevated water temperatures in portions of Diablo Cove, (2) entrainment of organisms in the cooling water system, (3) impingement of organisms on the intake traveling screens, and (4) scouring effects of the discharge in the intertidal zone at the point of discharge.

These effects have been extensively studied and the study results were considered in issuance of the National Pollution Discharge Elimination System (NPDES) Permit and renewals. The NPDES Permit is conditional upon the discharge complying with provisions of Division 7 of the California Water Code and of the Clean Water Act (as amended or as supplemented by implementing guidelines and regulations) and with any more stringent effluent limitations necessary to implement water quality control plans, to protect beneficial uses, and to prevent nuisance.

An April 28, 1988 study of the cooling water intake structure was submitted to the California Regional Water Quality Control Board, which concluded the facilities at DCPP reflect the best technology available (BTA). Further, the Monitoring and Reporting Program requires PG&E to continue ecological studies as approved by the Executive Officer to evaluate changes in distribution and abundance of marine plants and animals within the vicinity of the discharge. These operational studies have indicated that the effects of the discharge are consistent with the preoperational studies and modelling predictions; i.e., that the discharge would not significantly affect the marine ecology in the vicinity of DCPP. The Board and Department of Fish and Game have found the observed changes (mainly in relative abundance of species) to be acceptable.

Additional discharge and thermal effects are not anticipated based on operational data collected since 1984. Accordingly, the basis for the Board's order is expected to remain valid when the NPDES Permit is renewed in 1995 and thereafter.

Other nonradiological impacts of the proposed license extension involve the following factors:

a. Short-Term Use Versus Long-Term Productivity

The lifetime capacity factor for DCPP through its first 7 years of commercial operation is about 77 percent. The plant has maintained an excellent safety record during this period and recent NRC Systematic Assessment of Licensee Performance (SALP) reports have found the performance of licensed activities to be very good and in some cases to be superior. The licensee has achieved a high level of safety performance and recently met NRC criteria for recognition of its good performance. The staff expects that a good level of performance will continue during the remaining license period and during the requested extension period.

b. Irreversible and Irretrievable Commitment of Resources

The FES stated in its discussion of this factor, in regard to the initial plant construction as well as 40 years of projected operation, that the resource consumption is justified in view of the electrical energy to be produced by the plant. The NRC has not determined the need for any significant resource commitments necessary as a result of the proposed license extension.

c. Historic Preservation

PG&E continues to manage and protect the historic properties at DCPP in consultation with the California State Historic Preservation Office and the local Native American communities. As a result of this aggressive management, the Commission concludes, as it did in a letter to PG&E dated June 25, 1984, that operation of DCPP throughout the 40-year operating license terms will not adversely affect any known historic sites.

5. Plant Modifications

Several environmental-related plant modifications have been made since issuance of the FES and Addendum. Those that involve an unreviewed safety question or require a change to the Technical Specifications are submitted to the NRC for prior review and approval. This review includes a determination of the environmental effects of the proposed change. As provided by our regulations, other changes may be implemented without prior NRC approval. The licensee must first perform a safety evaluation for any such change, subject to NRC inspection and audit. The licensee also submits on a refueling outage basis, a summary of such changes to the NRC for its review. The update of the FSAR also includes a description of such changes and a summary of the safety evaluation. The staff reviews the FSAR updates to verify that the changes did not require prior NRC review and approval. In general, these changes further reduce the environmental impacts associated with DCPP operation. Some of the modifications include: Wastewater holding and treatment system,

hazardous waste storage, oil spill prevention, expanded sewage treatment, chlorination system modifications and makeup water treatment. Most of these plant design modifications and changes have had a direct positive impact on the environment; for example, chemical discharges have decreased and spill prevention has improved. Additional plant modifications and changes may be implemented during the proposed 40-year operating license terms. Based on past experience, future changes are not expected to have any adverse impact on the environment.

6. Conclusion on Environmental Impacts

In summary, the effects of changing the expiration date for the Unit 1 Operating License from April 23, 2008, to September 22, 2021, and the expiration date for the Unit 2 Operating License from December 9, 2010, to April 26, 2025, are bounded by the assessment in the original FES. In addition, based on the above, the Commission concludes that there are no significant environmental impacts associated with the proposed amendment.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated. However, the principal alternative would be to deny the requested amendment. If the plant is not operated beyond 2008, it is likely that it would be necessary to construct new baseload capacity. Even considering significant changes in the economics of the alternatives for producing an equivalent electrical power capacity, operation of DCPP during the requested extension period would only require incremental yearly costs. These costs would be substantially less than the installation of new electrical generating capacity. Moreover, the overall cost per year of the facility would decrease since the large initial capital outlay would be averaged over a greater number of years. In summary, the cost-benefit advantage of DCPP compared to alternative electrical power generating capacity improves with the extended plant lifetime.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in the Final Environmental Statement related to operation of Diablo Canyon, dated May 1973.

Agencies and Persons Consulted

The Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on July 22, 1992 (57 FR 32575). In accordance with 10 CFR 2.714(b), the San Luis Obispo Mothers for Peace, on August 21, 1992, filed a petition for leave to intervene and requested a hearing; the action has resulted in contacts between the staff and the Mothers for Peace.

Finding of No Significant Impact

The conclusions of the May 1973 Final Environmental Statement (FES) remain valid and operation of the plant has demonstrated that its impact on the environment has been within the bounds predicted by the FES for 40 years of operation. Based on its review of the proposed license amendment relative to the requirements set forth in 10 CFR part 51, the Commission concludes that there are no significant radiological or nonradiological impacts associated with the proposed action and that the issuance of the proposed license amendment will not have a significant effect on the quality of the human environment. Therefore, pursuant to 10 CFR 51.31, an environmental impact statement need not be prepared for the proposed license amendment.

For further details with respect to this action, see the licensee's application for amendment dated July 9, 1992, which is available for public inspection at the Commission's Public Document Room, Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room at California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Dated at Rockville, Maryland this 3rd day of February 1993.

For the Nuclear Regulatory Commission.

Theodore R. Quay,

Project Directorate V, Division of Reactor Project III/IV/V, Office of Nuclear Reactor Regulation.

FIGURE 1.—SUMMARY OF POPULATION PROJECTIONS FOR THE DIABLO CANYON VICINITY

Area (miles)	Original FSAR (1974) 2010	Revised FSAR (1985) 2010	Current 2010	Current 2025
0–6*	29	26	100	100
6–10	18,992	36,126	36,403	46,480
0–10	19,021	36,152	36,503	46,580
10–50	508,130	438,035	555,108	730,566
0–50	527,151	474,187	591,611	777,146

*Reflects Low Population Zone

FIGURE 2.—DIABLO CANYON VS. INPO INDUSTRY GOAL AVERAGE ANNUAL OCCUPATIONAL EXPOSURE

Year	Refueling outages	Total dose (person-rem per reactor unit)	
		DCPP 3-yr average	INPO 3 yr average goal
1986	1	151	288
1987	1	168	288
1988	2	253	288
1989	1	275	288
1990	1	269	288
1991	2	214	288
1992*	1	199	288
1993*	1	195	288
1994*	2	218	288
1995*	1	202	185
1996*	1	188	185

FIGURE 2.—DIABLO CANYON VS. INPO INDUSTRY GOAL AVERAGE ANNUAL OCCUPATIONAL EXPOSURE—Continued

Year	Refueling outages	Total dose (person-rem per reactor unit)	
		DCPP 3-yr average	INPO 3 yr average goal
1997*	2	150	185
1998*	1	150	185
1999*	1	150	185
2000*	2	150	185

*Projected, based on:
- 18-month fuel cycle operation
- 3.5 person-rem per non-outage month
- 1993 based on 80% of 1992 due to dose rate differences between units
- 50 person-rem savings per outage due to RTD bypass elimination in 1994

FIGURE 3.—COMPARISON OF OFFSITE APPENDIX I RADIATION EXPOSURE LIMITS AND ACTUAL DATA

Parameter	Appendix I dose limits (mrem)	DCPP 5-year maximum individual dose (mrem)	Percent of appendix I dose limit
Liquids	≤3	0.031	1.04
Gases	≤10	0.212	2.16
Iodines and particulates	≤15	0.027	0.18

[FR Doc. 93-3117 Filed 2-9-93; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 9999-0001; License No. 2467-3128; EA 92-203]

Order Imposing Civil Monetary Penalty

In the Matter of Capital Materials Testing, Inc., Ballston Spa, New York 12020.

I

Capital Materials Testing, Inc. (Licensee) is the holder of a Byproduct Material License issued by the State of New York which authorizes the License issued by the State of New York which authorizes the Licensee to use byproduct materials in industrial radiography and replacement of sources in accordance with the conditions specified therein. On October 6–7, 1992, the New York State Licensee was working at a field site in Pittsfield, Massachusetts under NRC jurisdiction subject to the reciprocity requirements set forth in 10 CFR 150.20 and 10 CFR part 34, subpart B.

II

An inspection of the Licensee's activities was conducted on October 6–7, 1992. The results of the inspection indicated that CMT had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the Licensee by letter dated November 20, 1992. The Notice stated the nature of the violations, the provisions of the NRC's requirements that the Licensee had violated, and the amount of the civil penalty proposed for the violations. The Licensee responded to the Notice in a letter, dated December 9, 1992. In its response, the Licensee did not deny the violations, but requested remission of the civil penalty.

III

After consideration of the Licensee's response and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff has determined, as set forth in the Appendix to this Order, that the violations occurred as stated and that the penalty proposed for Violation I designated in the Notice should be imposed.

IV

In view of the foregoing, and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, *it is hereby ordered that:*

The Licensee pay a civil penalty in the amount of $7,500 within 30 days of the date of this Order, by check, draft, money order, or electronic transfer, payable to the Treasurer of the United States and mailed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555.

The Licensee may request a hearing within 30 days of the date of this Order. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555. Copies also shall be sent to the Assistant General Counsel for Hearings and Enforcement at the same address and to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the Licensee fails to request a hearing within 30 days of the date of this Order, the provisions of this order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests a hearing as provided above, the issue to be considered at such hearing shall be whether, on the basis of Violation I set forth in the Notice, this Order should be sustained.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland this 3rd day of February 1993.

Hugh L. Thompson,

Deputy Executive Director for Nuclear Materials Safety, Safeguards and Operations Support.

Appendix

Evaluations and Conclusion

On November 20, 1992, a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was issued to Capital Materials Testing (CMT), Inc. for five violations identified during an NRC inspection on October 6–7, 1992, at a field site in Pittsfield, Massachusetts. CMT responded to the Notice on December 9, 1992. CMT did not deny

the violations, but requested full mitigation of the civil penalty. The NRC's evaluations and conclusions regarding CMT's requests are as follows:

1. Restatement of Violation Assessed a Civil Penalty

10 CFR 34.43(b) requires, in part, the licensee to ensure that a survey with a calibrated and operable radiation survey instrument is made after each radiographic exposure to determine that the sealed source has been returned to its shielded position. The survey must include the entire circumference of the radiographic exposure device and any source guide tube.

Contrary to the above, on October 6, 1992, at a temporary job site at a gas pipeline installation for Berkshire Gas of Pittsfield, Massachusetts, a licensee radiographer's assistant did not perform an adequate survey after each radiographic exposure to determine that the sealed source has been returned to its shielded position, in that although the radiographer's assistant walked toward the exposure device with the survey instrument, the survey did not include the entire circumference of the radiographic exposure device and the source guide tube.

This violation is classified at Severity Level III (Supplement VI).

Civil Penalty—$7,500

2. Summary of Licensee Response

CMT, in its response, does not deny the violation, but does request remission of the penalty on the basis that CMT, a State of New York (Agreement State) licensee, had never been cited for failure to survey; the magnitude of the fine would be detrimental, financially, to CMT; CMT took corrective actions which included voluntary initiation of an audit; and the violation was an inconsistent and isolated infraction of radiation safety procedures.

3. NRC Evaluation of Licensee Response

The NRC has evaluated CMT's response, and based upon that evaluation, the NRC has concluded that CMT did not provide an adequate basis for mitigation of the civil penalty.

With respect to CMT's contentions that it had never been cited for the failure to survey, and the violation was an inconsistent and isolated infraction of a radiation safety procedure, the NRC notes that these considerations, in themselves, do not provide a basis for mitigation of the penalty. CMT is responsible for the acts of its employees. Performing proper surveys after use of a radiography device is fundamental to radiation safety; the failure by other NRC licensee personnel to do so has resulted, at times, in significant radiological exposures to radiography personnel. While CMT may not have been cited for such a violation in the past by the NRC, this was the first NRC inspection conducted of CMT. Therefore, these licensee contentions do not provide a basis for mitigation of the civil penalty.

With respect to CMT's contention that the civil penalty would be financially detrimental, CMT provided no details to support that contention, and therefore mitigation is not warranted.

With respect to CMT's corrective action, the NRC notes that while those actions were acceptable, they were not of a prompt and comprehensive nature because while the licensee was aware of the findings of the NRC inspection on October 7, 1992, it did not issue a memorandum to its employees describing the violation and corrective action until November 6, 1992. Therefore, those actions do not provide a basis for any mitigation of the penalty.

4. NRC Conclusion

The NRC has concluded that CMT has not provided an adequate basis for mitigation of the civil penalty. Consequently, the proposed civil penalty in the amount of $7,500 should be imposed.

[FR Doc. 93-3116 Filed 2-9-93; 8:45 am]
BILLING CODE 7590-01-M

Carolina Power & Light Co.; Notice of Issuance of Amendment to Facility Operating License

[Docket Nos. 50-325 and 50-324]

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 160 to Facility Operating License No. DPR-71 and Amendment No. 191 Facility Operating License No. DPR-62 issued to Carolina Power & Light Company (the licensee), which revised the Technical Specification (TS) for operation of the Brunswick Steam Electric Plant, Units 1 and 2, located in Brunswick County, North Carolina. The amendment is effective as of the date of issuance and shall be implemented within 30 days of issuance.

The amendments allow a one-time only revision to the requirements of TS 3/4.3.3., Emergency Core Cooling System Actuation Instrumentation, when in Operational Condition 4 (Cold Shutdown) to support modifications to upgrade the seismic qualification of instrument racks H21-P009 (Unit 2 only) and H21-P010 (Unit 1 and Unit 2). The amendments allow the minimum number of operable channels for one reactor steam dome pressure—low instrumentation trip system to be temporarily reduced from two (2) channels to one (1) channel.

The application for the amendments, dated November 16, 1992, as supplemented January 25, 1993, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on December 18, 1992 (57 FR 60250). The January 25, 1993, letter provided updated TS pages and did not change the initial submittal notice in the **Federal Register**. No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of this amendment will not have a significant effect on the quality of the human environment (58 FR 6813).

For further details with respect to the action see (1) the application for amendment dated November 16, 1992, as supplemented January 25, 1993, (2) Amendment No. 160 to license No DPR-71 and Amendment No. 191 to License No. DPR-62, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Document Control Desk.

Dated at Rockville, Maryland this 3rd day of February 1993.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Director, Project Directorate II-I, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 93-3118 Filed 2-9-93; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences (GSP); Withdrawal of Petition

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of the withdrawal of a petition accepted as part of 1992 GSP Annual Review.

ADDRESS: 600 17th Street, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: GSP Subcommittee, Office of the United States Trade Representative. The telephone number is (202) 395-6971.

SUPPLEMENTARY INFORMATION:

Withdrawal of Petition

The Motion Picture Export Association of America (MPEAA) has withdrawn its petition seeking the revocation of Malta's benefits under the Generalized System of Preferences (GSP) program for failure to protect U.S. copyright interests. The petition was withdrawn because the Government of Malta has taken specific steps to resolve the petition's key issues. Accordingly, the GSP Subcommittee has determined that the review of Malta's intellectual property rights practices during the 1992 Annual Review is no longer warranted, and has terminated such review.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 93-3179 Filed 2-9-93: 8:45 am]

BILLING CODE 3901-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

Order of Suspension of Securities Trading

February 4, 1993.

In the Matter of Trading in the Securities of Enrotek Properties Inc., a/k/a Enrotek Ltd.

It appears to the Securities and Exchange Commission (Commission) that there is a lack of current and accurate information concerning Enrotek Properties Inc., a/k/a Enrotek Ltd., with respect to, among other things, the company's financial statements in a Form 10 registration statement, which became effective February 4, 1993, by operation of law under the provisions of the section 12(g) of the Securities Exchange Act of 1934.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the aforementioned company.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of Enrotek Properties Inc., a/k/a Enrotek Ltd. be suspended for the period from 5:15 p.m. (EDT), February 4, 1993 through 12 p.m., midnight (EDT), February 18, 1993.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 93-3145 Filed 2-9-93; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 92-58; Notice 2]

Kewet Industri; Grant of Petition for Temporary Exemption From Federal Motor Vehicle Safety Standard No. 208

This notice grants the petition by Kewet Industri of Hadsund, Denmark, for a temporary exemption from the automatic restraint requirements of Motor Vehicle Safety Standard No. 208 *Occupant Crash Protection*. The basis of the petition was that an exemption would facilitate the development and field evaluation of a low-emission motor vehicle.

Notice of receipt of the petition was published on December 3, 1992, and an opportunity afforded for comment (57 FR 57274).

Kewet manufactures a passenger car called the El-Jet. The vehicle is powered by on-board rechargeable batteries which drive an electric traction motor. The El-Jet, which produces no emissions, is therefore a "low-emission motor vehicle" within the meaning of NHTSA's authority to provide temporary exemptions.

Petitioner argued that the granting of a temporary exemption would facilitate the development of an electric vehicle industry in the Untied States. The vehicle is so small that it could serve as a replacement for the 3-wheel Cushman type meter reader vehicle in municipal fleets. It provides greater safety for the operator at a substantially lower price. Further, an exemption would promote learning and exchange of information between the Danish electric vehicle industry and the U.S. one. Finally, the El-Jet will demonstrate the commercial viability of a "neighborhood electric vehicle."

Petitioner also argued that an exemption would not unreasonably degrade the safety of the vehicle. The El-Jet is equipped with a 3-point restraint system, and will otherwise comply with all applicable Federal motor vehicle safety standards. It complies with all current European motor safety standards and has passed a crash test at 50 kph. Its top speed is only 45 mph, reducing the risk of injury. Although Kewet has requested a 2-year exemption, it is developing a driver's side air bag, and expects to be able to provide one in all cars manufactured after September 1993. Kewet projects sales of 30 to 50 vehicles through 1993.

In Kewet's opinion, a temporary exemption would be in the public interest and consistent with traffic safety objectives because it will contribute towards improving air quality and will "very shortly" fully comply with the Federal motor vehicle safety standards.

No comments were received on the petition.

Under 15 U.S.C. 1410(a)(1)(C) and (a)(2), the Administrator may grant a petition for temporary exemption upon finding "that such temporary exemption would facilitate the development or field evaluation of a low-emission motor vehicle and would not unreasonably degrade the safety of such vehicle," and "that such temporary exemption would be consistent with the public interest and the objectives of the [National Traffic and Motor Vehicle Safety] Act."

The importation of the E1-Jet into the United States will allow its Danish manufacturer to judge its suitability for use on the public roads of the United States, and afford the opportunity for its further development. Its introduction into the growing fleet of electric vehicles in this country will provide consumers with an additional choice of an alternative low-emission motor vehicle. The petitioner has affirmed that the E1-Jet will conform with all Federal motor vehicle safety standards that apply to passenger cars with the exception of the automatic restraint requirements of Standard No. 208. It is likely that the vehicle will be equipped with a driver's side air bag long before the expiration of the exemption requested.

In consideration of the foregoing, it is hereby found that the temporary exemption which Kewet has requested

would facilitate the development or field evaluation of a low-emission motor vehicle, that such exemption would not unduly degrade the safety of the motor vehicle, and that such exemption would be consistent with the public interest and the objectives of the Vehicle Safety Act. Accordingly, Kewet Industri is hereby granted NHTSA Temporary Exemption No. 93-1 from S4.1.4.1 and S4.1.2.1 of 49 CFR 571.208 Motor Vehicle Safety Standard No. 208 *Occupant Crash Protection*, expiring January 1, 1995.

Authority: 15 U.S.C. 1410; delegation of authority at 49 CFR 1.50 and 501.4.

Issued on February 3, 1993.

Howard M. Smolkin,

Executive Director.

[FR Doc. 93-3039 Filed 2-9-93; 8:45 am]

BILLING CODE 4910-59-M

Research and Special Programs Administration

Grants and Denials of Applicants for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Notice of grants and denials of applications for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given of the exemptions granted in April through September 1992. The modes of transportation involved are identified by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

MODIFICATION AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
2000-P	DOT-E 2000	Praxair, Inc., Danbury, CT	49 CFR 172.101, 173.304(a), 173.316(a)(2).	To become a party to exemption 2000. (mode 1)
2582-P	DOT-E 2582	Praxair, Inc., Danbury, CT	49 CFR 175.3, Part 173, Subparts D, E, F, G.	To become a party to exemption 2582. (modes 1, 2, 3, 4)
3004-P	DOT-E 3004	Bitec Southeast, Inc., Tampa, FL	49 CFR 173.302, 175.3	To become a party to exemption 3004. (modes 1, 2)
3004-P	DOT-E 3004	Praxair, Inc., Danbury, CT	49 CFR 173.302, 175.3	To become a party to exemption 3004. (modes 1, 2)
3941-P	DOT-E 3941	Western Electrochemical Company, Cedar City, UT.	49 CFR 173.239a(a)(2)	To become a party to exemption 3941. (modes 1, 2)
4453-P	DOT-E 4453	Sandex, Inc., Las Vegas, NV	49 CFR 172.101, 173.114a(h)(3), 176.415, 176.83.	To become a party to exemption 4453. (modes 1, 3)
4453-P	DOT-E 4453	Slurry Explosive Corporation, Columbus, KS.	49 CFR 172.101, 173.114a(h)(3), 176.415, 176.83.	To become a party to exemption 4453. (modes 1, 3)
4453-P	DOT-E 4453	ICI Explosives USA Inc., Dallas, TX.	49 CFR 172.101, 173.114a(h)(3), 176.415, 176.83.	To become a party to exemption 4453. (modes 1, 3)
4453-P	DOT-E 4453	Gibson-IRECO, Inc., Duffield, VA	49 CFR 172.101, 173.114a(h)(3), 176.415, 176.83.	To become a party to exemption 4453. (modes 1, 3)
4575-P	DOT-E 4575	Praxair, Inc., Danbury, CT	49 CFR 173.314(c), 173.315(a)	To become a party to exemption 4575. (modes 1, 2)
4884-P	DOT-E 4884	Bitec Southeast, Inc., Tampa, FL	49 CFR 173.119(m), 173.136, 173.247, 173.251, 173.3(a), 173.302(a)(1), 173.304, 175.3, 178.61.	To become a party to exemption 4884. (modes 1, 2, 3)
5206-P	DOT-E 5206	Sandex, Inc., Las Vegas, NV	49 CFR 173.114a	To become a party to exemption 5206. (mode 1)
5206-P	DOT-E 5206	ICI Explosives USA Inc., Dallas, TX.	49 CFR 173.114a	To become a party to exemption 5206. (mode 1)
5403-P	DOT-E 5403	Brown & Root Industrial Services, Inc., Houston, TX.	49 CFR 173.245(a)(31), 173.248(a)(6), 173.249(a)(6), 173.263(a)(10), 173.264(a)(14), 173.268(b)(3), 173.272(i)(21), 173.289(a)(4), 178.343-2(b), 178.343-5(b)(1)(i), 178.343-5(b)(2)(i).	To become a party to exemption 5403. (modes 1, 3)
5643-P	DOT-E 5643	Praxair, Inc., Danbury, CT	49 CFR 172.203, 173.318, 173.320, 176.76(h), 178.338.	To become a party to exemption 5643. (modes 1, 3)
5704-P	DOT-E 5704	United Technologies Corp./Chemical Systems Div., San Jose, CA.	49 CFR 173.62, 173.93(e)	To become a party to exemption 5704. (modes 1, 2, 3)
5704-P	DOT-E 5704	Rockwell International Corporation, Canoga Park, CA.	49 CFR 173.62, 173.93(e)	To become a party to exemption 5704. (modes 1, 2, 3)
5923-P	DOT-E 5923	Praxair, Inc., Danbury, CT	49 CFR 173.148(a)(4), 173.31(d)(9), 173.314.	To become a party to exemption 5923. (modes 1, 2, 3)
6325-P	DOT-E 6325	Sandex, Inc., Las Vegas, NV	49 CFR 173.154(a)	To become a party to exemption 6325. (mode 1)
6325-P	DOT-E 6325	ICI Explosives USA Inc., Dallas, TX.	49 CFR 173.154(a)	To become a party to exemption 6325. (mode 1)
6349-X	DOT-E 6349	Union Carbide Corporation, Danbury, CT.	49 CFR 172.203(a), 173.32, 173.318, 176.30(a), 176.76(h), 177.840, 178.338.	To amend exemption to change proper shipping name, to eliminate the requirement for weighing the tank, to revise the retest period from 2-5 years and to delete the OWTT requirement for liquid helium. (modes 1, 2, 3)
6349-P	DOT-E 6349	Praxair, Inc., Danbury, CT	49 CFR 172.203(a), 173.32, 173.318, 176.30(a), 176.76(h), 177.840, 178.338.	To become a party to exemption 6349. (modes 1, 2, 3)
6418-P	DOT-E 6418	Southern States Cooperative, Inc., Richmond, VA.	49 CFR 173.357(b)	To become a party to exemption 6418. (mode 1)
6530-P	DOT-E 6530	Praxair, Inc., Danbury, CT	49 CFR 173.302(c)	To become a party to exemption 6530. (modes 1, 2)

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
6530–P	DOT–E 6530	Valley Welding Supply Company, Wheeling, WV.	49 CFR 173.302(c)	To become a party to exemption 6530. (modes 1, 2)
6543–P	DOT–E 6543	Praxair, Inc., Danbury, CT	49 CFR 173.119, 173.135(a)(6), 173.136(a)(5), 173.245, 173.247, 173.271, 175.3.	To become a party to exemption 6543. (modes 1, 2, 3, 4)
6563–P	DOT–E 6563	Bitec Southeast, Inc., Tampa, FL	49 CFR 173.302(a)(1), 175.3, 1738.42–2.	To become a party to exemption 6563. (modes 1, 2, 3, 4)
6611–X	DOT–E 6611	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 173.318(a)	To modify the exception to decrease design pressure on non-DOT specification portable tanks from 1-½ to 1-14 for shipment of helium, refrigerated liquid. (modes 1, 3)
6614–P	DOT–E 6614	Miami Products and Chemical Co., Dayton, OH.	49 CFR 173.263(a)(28), 173.277(a)(6).	To become a party to exemption 6614. (mode 1)
6614–P	DOT–E 6614	Allied Universal Corporation, Miami, FL.	49 CFR 173.263(a)(28), 173.277(a)(6).	To become a party to exemption 6614. (mode 1)
6686–X	DOT–E 6686	Chilton Metal Products Div., Western Industries, Chilton, WI.	49 CFR 173.304, 178.65	To modify the exemption to include cargo vessel as an additional mode of transportation. (modes 1, 2)
6691–P	DOT–E 6691	Albany Welding Supply Company, Inc., Albany, NY.	49 CFR 173.34(e)(15)(i), Part 107, Subpart B, Appendix B.	To become a party to exemption 6691. (modes 1, 2, 3,4 5)
6691–P	DOE–E 6691	JWS Technologies, Inc., Oakland, NJ.	49 CFR 173.34(e)(15)(i), Part 107, Subpart B, Appendix B.	To become a party to exemption 6691. (modes 1, 2, 3, 4, 5)
6691–P	DOT–E 6691	The Red Oak Machine Company, Inc., Red Oak, IA.	49 CFR 173.34(e)(15)(i), Part 107, Subpart B, Appendix B.	To become a party to exemption 6691. (modes 1, 2, 3, 4, 5)
6691–P	DOE–E 6691	ABCO Welding & Industrial Supply Waterford, CT.	49 CFR 173.34(e)(15)(i), Part 107, Subpart B, Appendix B.	To become a party to exemption 6691. (modes 1, 2, 3, 4, 5)
6691–P	DOT–E 6691	T.W. Smith Corporation, Brooklyn, NY.	49 CFR 173.34(e)(15)(i), Part 107, Subpart B, Appendix B.	To become a party to exemption 6691. (modes 1, 2, 3, 4, 5)
6691–P	DOT–E 6691	N.H. Bragg & Sons, Bangor, ME	49 CFR 173.34(e)(15)(i), Part 107, Subpart B, Appendix B.	To become a party to exemption 6691. (modes 1, 2, 3, 4, 5)
6691–P	DOT–E 6691	Bitec Southeast, Inc., Tampa, FL	49 CFR 173.34(e)(15)(i), Part 107, Subpart B, Appendix B.	To become a party to exemption 6691. (modes 1, 2, 3, 4, 5)
6691–P	DOT–E 6691	Praxair, Inc., Danbury, CT	49 CFR 173.34(e)(15)(i), Part 107, Subpart B, Appendix B.	To become a party to exemption 6691. (modes 1, 2, 3, 4, 5)
6759–P	DOT–E 6759	ICI Explosives USA Inc., Dallas, TX.	49 CFR 173.87, 177.835(g)(2)	To become a party to exemption 6759. (mode 1)
6765–P	DOT–E 6765	Praxair, Inc., Danbury, CT	49 CFR 172.203, 173.318, 173.320, 176.30, 176.76(h), 177.840, 178.338.	To become a party to exemption 6765. (modes 1, 3)
6805–P	DOT–E 6805	Bitec Southeast, Inc., Tampa, FL	49 CFR 173.301(d), 173.302(a)(3)	to become a party to exemption 6805. (mode 1)
6805–P	DOT–E 6805	Praxair, Inc., Danbury, CT	49 CFR 173.301(d), 173.302(a)(3)	To become a party to exemption 6805. (mode 1)
6810–P	DOT–E 6810	U.S. Department of Energy, Washington, DC.	49 CFR 173.302(a)(1), 173.314(c)	To become a party to exemption 6810. (mode 1)
6874–P	DOT–E 6874	ICI Canada Inc., North York, Ontario, CN.	49 CFR 172.101, 173.370(a)(13)	To become a party to exemption 6874. (modes 1, 2, 3)
6971–P	DOT–E 6971	Chromatography Research Supplies, Inc., Addison, IL.	49 CFR Parts 100–199	To become a party to exemption 6971. (modes 1, 2, 3, 4)
7052–P	DOT–E 7052	Stuart Cody Inc. d/b/a Automated Media Systems, Allston, MA.	49 CFR 172.101, 172.400, 175.3	To become a party to exemption 7052. (modes 1, 2, 3, 4, 5)
7052–P	DOT–E 7052	SMTEK, Inc., Newbury Park, CA	49 CFR 172.101, 172.400, 175.3	To become a party to exemption 7052. (modes 1, 2, 3, 4, 5)
7052–P	DOT–E 7052	Magellan Systems Corporation, San Dimas, CA.	49 CFR 172.101, 172.400, 175.3	To become a party to exemption 7052. (modes 1, 2, 3, 4, 5)
7060–P	DOT–E 7060	Corporate Air, Inc., Hartford, CT	49 CFR 175.702(b), 175.75(a)(3)(ii).	To become a party to exemption 7060. (mode 4)
7259–X	DOT–E 7259	Monsanto Chemical Company, St. Louis, MO.	49 CFR 176.76(g)(5)	To authorize shipment of phosphorus pentasulfide in DOT Specification 56 portable tank having a gross weight up to 8200 pounds. (mode 3)
7268–P	DOT–E 7268	Valley Welding Supply Company, Wheeling, WV.	49 CFR 173.304(a)(1)	To become a party to exemption 7268. (modes 1, 2, 3)
7268–P	DOT–E 7268	Praxair, Inc., Danbury, CT	49 CFR 173.304(a)(1)	To become a party to exemption 7258. (modes 1, 2, 3)
7268–P	DOT–E 7268	Valley Welding Supply Company, Wheeling, WV.	49 CFR 173.304(a)(1)	To become a party to exemption 7268. (modes 1, 2, 3)
7274–P	DOT–E 7274	Praxair, Inc., Danbury, CT	49 CFR 172,101, 173.318, 173.320, 176.30, 176.76(h).	To become a party to exemption 7274. (mode 3)
7451–P	DOT–E 7451	Praxair, Inc., Danbury, CT	49 CFR 173.304, 173.315	To become a party to exemption 7451. (modes 1, 3)
7616–P	DOT–E 7616	Paducah & Louisville Railway, Inc., Paducah, KY.	49 CFR 172.200(a), 172.204(a), 172.204(d), 174.12, 174.24(a), 174.25(b)(2), 174.3.	To become a party to exemption 7616. (mode 2)
7616–P	DOT–E 7616	Chicago Central & Pacific Railroad Company, Waterloo, IA.	49 CFR 172.200(a), 172.204(a), 172.204(d), 174.12, 174.24(a), 174.25(b)(2), 174.3.	To become a party to exemption 7616. (mode 2)
7628–P	DOT–E 7628	LCI, Ltd., Jacksonville Beach, FL	49 CFR 173.264(a)(11), 173.265 (b)(3).	To become a party to exemption 7628. (mode 2)
7716–P	DOT–E 7716	Slurry Explosive Corporation, Columbus, KS.	49 CFR 173.153(b)(1)	To become a party to exemption 7716. (modes 1, 2, 3)
7716–P	DOT–E 7716	ICI Explosives USA Inc., Dallas, TX.	49 CFR 173.153(b)(1)	To become a party to exemption 7716. (modes 1, 2, 3)

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7834–P	DOT–E 7834	American Industrial X-Ray Service, Inc., Antioch, IL.	49 CFR 173.306(b)(4), 175.3	To become a party to exemption 7834. (modes 2, 3, 4, 5)
7835–P	DOT–E 7835	Arizona Welding Equipment Company, Phoenix, AZ.	49 CFR 177.848, Part 107, Appendix (B)(1).	To become a party to exemption 7835. (mode 1)
7835–P	DOT–E 7835	Bitec Southeast, Inc., Tampa, FL	49 CFR 177.848, Part 107, Appendix (B)(1).	To become a party to exemption 7835. (mode 1)
7835–P	DOT–E 7835	Praxair, Inc., Danbury, CT	49 CFR 177.848, Part 107, Appendix (B)(1).	To become a party to exemption 7835. (mode 1)
7846–P	DOT–E 7846	Praxair, Inc., Danbury, CT	49 CFR 173.314(c)	To become a party to exemption 7846. (modes 3)
7943–P	DOT–E 7943	AB-Chem Industries, El Cajon, CA	49 CFR 173.263(a)(15), 173.272(c), 173.272(i)(12), 173.277(a)(1).	To become a party to exemption 7943. (mode 1)
7945–P	DOT–E 7945	Northrop Corporation, Hawthorne, CA.	49 CFR 172.101, 173.301(d)(2), 173.302(a)(3).	To become a party to exemption 7945. (modes 2, 4, 5)
7951–P	DOT–E 7951	Ready Food Products, Inc., Philadelphia, PA.	49 CFR 173.306(b)(1), 175.3, 178.33.	To become a party to exemption 7951. (modes 2, 3, 4, 5)
7951–P	DOT–E 7951	Rod's Food Products, City of Industry, CA.	49 CFR 173.306(b)(1), 175.3, 178.33.	To become a party to exemption 7951. (modes 2, 3, 4, 5)
8006–P	DOT–E 8006	Celebration Fireworks, Indianapolis, IN.	49 CFR 172.400(a), 172.504 Table 2.	To become a party to exemption 8006. (mode 1)
8013–P	DOT–E 8013	Bitec Southeast, Inc., Tampa, FL	49 CFR 173.302, 173.304, 175.3	To become a party to exemption 8013. (modes 4)
8013–P	DOT–E 8013	Praxair, Inc., Danbury, CT	49 CFR 173.302, 173.304, 175.3	To become a party to exemption 8013. (modes 4)
8156–P	DOT–E 8156	Valley Welding Supply Company, Wheeling, WV.	49 CFR 173.121, 173.302(a)(4), 173.302(f), 173.304(a)(1).	To become a party to exemption 8156. (modes 2)
8156–P	DOT–E 8156	Bitec Southeast, Inc., Tampa, FL.	49 CFR 173.121, 173.302(a)(4), 173.302(f), 173.304(a)(1).	To become a party to exemption 8156. (modes 2)
8156–P	DOT–E 8156	Praxair, Inc., Danbury, CT	49 CFR 173.121, 173.302(a)(4), 173.302(f), 173.304(a)(1).	To become a party to exemption 8156. (modes 2)
8214–P	DOT–E 8214	Mazda (North America), Inc., Irvine, CA.	49 CFR 171.11 (see paragraph 8.d.), 173.153, 173.154, 175.3.	To become a party to exemption 8214. (modes 2, 3, 4)
8214–P	DOT–E 8214	Automotive Systems Laboratory, Inc., Farmington Hills, MI.	49 CFR 171.11 (see paragraph 8.d.), 173.153, 173.154, 175.3.	To become a party to exemption 8214. (modes 2, 3, 4)
8236–P	DOT–E 8236	Automotive Systems Laboratory, Inc., Farmington Hills, MI.	49 CFR 171.11 (see paragraph 8.d.), 173.153, 173.154, 175.3.	To become a party to exemption 8236. (modes 2, 3)
8273–P	DOT–E 8273	Automotive Systems Laboratory, Inc., Farmington Hills, MI.	49 CFR 171.11 (see paragraph 8.d.), 173.153, 173.154, 175.3.	To become a party to exemption 8273. (modes 2, 3, 4)
8426–P	DOT–E 8426	Northwest EnviroService, Inc., Seattle, WA.	49 CFR 173.119(a), (m), 173.245(a), 173.346(a), 178.340–7, 178.342–5, 178.343–5.	To become a party to exemption 8426. (mode 1)
8451–P	DOT–E 8451	Western Atlas International, Inc., Houston, TX.	49 CFR 173.65, 173.86(e), 175.3	To become a party to exemption 8451. (modes 2, 4)
8453–P	DOT–E 8453	Sandex, Inc., Las Vegas, NV	49 CFR 173.114a	To become a party to exemption 8453. (modes 3)
8453–P	DOT–E 8453	ICI Explosives USA Inc., Dallas, TX.	49 CFR 173.114a	To become a party to exemption 8453. (modes 3)
8526–P	DOT–E 8526	Rockwell International Corporation, Los Angeles, CA.	49 CFR 177.834(L)(2)(i)	To become a party to exemption 8526. (mode 1)
8538–P	DOT–E 8538	ICI Explosives USA Inc., Dallas TX.	49 CFR 173.62, 178.77	To become a party to exemption 8538. (mode 1)
8554–P	DOT–E 8554	Sandex, Inc., Las Vegas, NV	49 CFR 173.114a, 173.154, 173.93.	To become a party to exemption 8554. (modes 3)
8554–P	DOT–E 8554	OEI Incorporated, Whitesburg, GA	49 CFR 173.114a, 173.154, 173.93.	To become a party to exemption 8554. (modes 3)
8554–P	DOT–E 8554	Slurry Explosive Corporation, Columbus, KS.	49 CFR 173.114a, 173.154, 173.93.	To become a party to exemption 8554. (modes 3)
8554–P	DOT–E 8554	ICI Explosives USA Inc., Dallas, TX.	49 CFR 173.114a, 173.154, 173.93.	To become a party to exemption 8554. (modes 3)
8556–P	DOT–E 8556	Praxiar, Inc., Danbury, CT	49 CFR 172.203, 173.318, 173.320, 176.30, 176.76(h), 177.840, 178.338.	To become a party to exemption 8556. (modes 3)
8582–P	DOT–E 8582	Cedar River Railroad, Waterloo, IA.	49 CFR Parts 100–177	To become a party to exemption 8582. (mode 1)
8582–P	DOT–E 8582	Chicago Central and Pacific Railroad Company, Waterloo, IA.	49 CFR Parts 100–177	To become a party to exemption 8582. (mode 1)
8582–P	DOT–E 8582	R.L. Taylor, Keokuk, IA	49 CFR Parts 100–177	To become a party to exemption 8582. (mode 1)
8582–P	DOT–E 8582	Seagraves, Whiteface & Lubbock Railroad, Brownfield, TX.	49 CFR Parts 100–177	To become a party to exemption 8582. (mode 1)
8627–P	DOT–E 8627	Pronto Chemical & Pressure Testing, Corporation Hennessey, OK.	49 CFR 173.119, 173.245, 178.253.	To become a party to exemption 8627. (mode 1)
8645–P	DOT–E 8645	Sandex, Inc., Las Vegas, NV	49 CFR 173.154(a)(18)	To become a party to exemption 8645. (mode 1)
8645–P	DOT–E 8645	C&K Coal, Clarion, PA	49 CFR 173.154(a)(18)	To become a party to exemption 8645. (mode 1)
8723–P	DOT–E 8723	ICI Explosives USA Inc., Dallas, TX.	49 CFR 172.101, 173.114a(h)(3), 173.154, 176.415, 176.83.	To become a party to exemption 8723. (modes 3)
8725–P	DOT–E 8725	Natural Gas Vehicle Systems, Inc., Long Beach, CA.	49 CFR 173.302(a)	To become a party to exemption 8725. (mode 1)
8815–P	DOT–E 8815	Austin Powder Company, Cleveland, OH.	49 CFR 173.114a(b)	To become a party to exemption 8815. (mode 1)

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8815–P	DOT–E 8815	ICI Explosives USA Inc., Dallas, TX.	49 CFR 173.114a(b)	To become a party to exemption 8815. (mode 1)
8845–P	DOT–E 8845	Owen Oil Tools, Inc., Fort Worth, TX.	49 CFR 173.110(c)(1), 173.80(b), 173.80(c).	To become a party to exemption 8845. (modes 1, 2)
8862–P	DOT–E 8862	Bitec Southeast, Inc., Tampa, FL.	49 CFR 173.119, 173.124(a)(4), 173.305.	To become a party to exemption 8862. (mode 1)
8862–P	DOT–E 8862	Praxair, Inc., Danbury, CT	49 CFR 173.119, 173.124(a)(4), 173.305.	To become a party to exemption 8862. (mode 1)
8877–P	DOT–E 8877	Ashland Chemical, Inc., Columbus, OH.	49 CFR 173.119, 173.245	To become a party to exemption 8877. (modes 1, 2, 3)
8901–X	DOT–E 8901	Douglas Chemical Company, Liberty, MO.	49 CFR 173.357	To modify the exemption to provide for cargo vessel as an additional mode of transportation for use in transporting Class B poisons contained in polyethylene bottles overpacked in fiberboard boxes. (mode 1)
8915–P	DOT–E 8915	Praxair, Inc., Danbury, CT	49 CFR 173.301(d), 173.302(a)(3)	To become a party to exemption 8915. (modes 1, 3)
8923–P	DOT–E 8923	Bitec Southeast, Inc., Tampa, FL.	49 CFR 173.119(m), 173.3(a)	To become a party to exemption 8923. (mode 1)
8923–P	DOT–E 8923	Praxair, Inc., Danbury, CT	49 CFR 173.119(m), 173.3(a)	To become a party to exemption 8923. (mode 1)
8943–P	DOT–E 8943	Ross Transportation Services, Inc., Grafton, OH.	49 CFR 173.154	To become a party to exemption 8943. (mode 1)
8944–X	DOT–E 8944	Union Carbide Corporation, Danbury, CT.	49 CFR 173.302(c)(2), 173.302(c)(3), 173.302(c)(4), 173.34(e) the introductory paragraph, the Table, Part 107, Appendix B.	To authorize certain modifications for acoustic emission testing of cylinders for shipment of nonflammable gases and to modify reporting criteria. (modes 1, 3)
8944–P	DOT–E 8944	Bitec Southeast, Inc., Tampa, FL.	49 CFR 173.302(c)(2), 173.302(c)(3), 173.302(c)(4), 173.34(e) the introductory paragraph, the Table, Part 107, Appendix B.	To become a party to exemption 8944. (modes 1, 3)
8944–P	DOT–E 8944	Praxair, Inc., Danbury, CT	49 CFR 173.302(c)(2), 173.302(c)(3), 173.302(c)(4), 173.34(e) the introductory paragraph, the Table, Part 107, Appendix B.	To become a party to exemption 8944. (modes 1, 3)
8958–P	DOT–E 8958	Double F Productions, Tucson, AZ	49 CFR 172.101, 173.60	To become a party to exemption 8958. (modes 1, 2)
8958–P	DOT–E 8958	Petro-Explo, Inc., Arlington, TX	49 CFR 172.101, 173.60	To become a party to exemption 8958. (modes 1, 2)
8966–P	DOT–E 8966	AB-Chem Industries, El Cajon, CA	49 CFR 173.263(a)(15), 173.277(a)(1), 178.205.	To become a party to exemption 8966. (mode 1)
8967–X	DOT–E 8967	Hercules, Inc., Wilmington, DE	49 CFR 173.93(a)(11)	To renew and modify the exemption to authorize the transportation of an additional Class B explosive. (mode 1)
9034–P	DOT–E 9034	Praxair, Inc., Danbury, CT	49 CFR 173.302, 173.304, 173.328, 173.334, 175.3.	To become a party to exemption 9034. (modes 1, 2, 3, 4)
9047–P	DOT–E 9047	Bitec Southeast, Inc., Tampa, FL.	49 CFR 173.124(a)(2), 173.124(a)(4), 175.3.	To become a party to exemption 9047. (modes 1, 2, 3, 4)
9047–P	DOT–E 9047	Praxair, Inc., Danbury, CT	49 CFR 173.124(a)(2), 173.124(a)(4), 175.3.	To become a party to exemption 9047. (modes 1, 2, 3, 4)
9047–P	DOT–E 9047	Valley Welding Supply Company, Wheeling, WV.	49 CFR 173.124(a)(2), 173.124(a)(4), 175.3.	To become a party to exemption 9047. (modes 1, 2, 3, 4)
9108–P	DOT–E 9108	ICI Explosives USA Inc., Dallas, TX.	49 CFR 173.77	To become a party to exemption 9108. (modes 1, 3)
9108–X	DOT–E 9108	Trojan Corporation, Spanish Fork, UT.	49 CFR 173.77	To authorize use of contract carriers for shipment of initiating explosive, Class A in composite type packaging. (modes 1, 3)
9150–X	DOT–E 9150	Hoover Group, Inc., Beatrice, NE.	49 CFR 173.119, 173.256, 173.266, 178.19, 178.253, Part 173, Subpart F.	To delete cross-link tests and clarify certain marking requirements for polyethylene portable tanks for shipment of certain corrosive liquids, flammable liquids and hydrogen peroxide solutions. (modes 1, 2, 3)
9275–P	DOT–E 9275	Calvin Klein Cosmetics Company, Mount Olive, NJ.	49 CFR Parts 100–199	To become a party to exemption 9275. (modes 1, 2, 3, 4)
9282–X	DOT–E 9282	Halocarbon Products Corporation, North Augusta, SC.	49 CFR 173.314(c)	To modify the exemption to provide for additional commodities classed as non-flammable gases to be shipped in multi-unit car tanks. (modes 1, 2, 3)
9346–P	DOT–E 9346	Marsulex Inc., North York, Ontario, Canada.	49 CFR 174.67(a)(2)	To become a party to exemption 9346. (mode 2)
9346–P	DOT–E 9346	Niagara Mohawk Power Corporation, Syracuse, NY.	49 CFR 174.67(a)(2)	To become a party to exemption 9346. (mode 2)
9348–P	DOT–E 9348	DC Battery Products, St. Paul, MN	49 CFR 173.206, 175.3, 175.85, Part 107, Appendix B.	To become a party to exemption 9348. (modes 1, 2, 4, 5)
9355–P	DOT–E 9355	Added Value Technology, Inc. (AVT), Littleton, CO.	49 CFR Parts 100–177	To become a party to exemption 9355. (modes 1, 2, 3, 4, 5)
9357–P	DOT–E 9357	Tiphook Tank Rental, Limited, Kent, England.	49 CFR 173.315, 178.245	To become a party to exemption 9357. (modes 1, 2, 3)
9377–P	DOT–E 9377	ICI Explosives USA Inc., Dallas, TX.	49 CFR 173.65(a)(5)	To become a party to exemption 9377. (modes 1, 2, 3)

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9414–P	DOT–E 9414	Bitec Southeast, Inc., Tampa, FL	49 CFR 173.302(a)(5)	To become a party to exemption 9414. (modes 1, 3)
9414–P	DOT–E 9414	Praxair, Inc., Danbury, CT	49 CFR 173.302(a)(5)	To become a party to exemption 9414. (modes 1, 3)
9419–P	DOT–E 9419	Bitec Southeast, Inc., Tampa, FL	49 CFR 173.302(c)(2), 173.302(c)(3), 173.302(c)(4), 173.34(e), Part 107, Appendix B.	To become a party to exemption 9419. (modes 1, 3)
9421–X	DOT–E 9421	Taylor-Wharton, Division of Harsco Corporation, Harrisburg, PA.	49 CFR 173.301(h), 173.302, 173.304, 173.34(a)(1), 175.3, 178.37.	To authorize deletion of the provision that requires fraction toughness testing. (modes 1, 2, 3, 4)
9436–P	DOT–E 9436	Praxair, Inc., Danbury, CT	49 CFR 172.203, 173.318, 173.320, 176.30, 176.76(h).	To become a party to exemption 9436. (modes 1, 3)
9481–P	DOT–E 9481	ICI Explosives USA Inc., Dallas, TX.	49 CFR 173.77	To become a party to exemption 9481. (mode 1)
9485–P	DOT–E 9485	Southeastern Fumigants, Inc., Dawson, GA.	49 CFR 173.305	To become a party to exemption 9485. (modes 1, 2, 3)
9491–P	DOT–E 9491	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 173.302, 173.304	To become a party to exemption 9491. (modes 1, 2, 3, 4, 5)
9507–P	DOT–E 9507	GenEx, Roseville, MN	49 CFR 173.119, 173.302, 173.304, 173.328, 173.34, 173.346.	To become a party to exemption 9507. (mode 1)
9507–P	DOT–E 9507	Bitec Southeast, Inc., Tampa FL	49 CFR 173.119, 173.302, 173.304, 173.328, 173.34, 173.346.	To become a party to exemption 9507. (mode 1)
9507–P	DOT–E 9507	Presto Technologies, Inc., West Hartford, CT.	49 CFR 173.119, 173.302, 173,304, 173.328, 173.34, 173.346.	To become a party to exemption 9507. (mode 1)
9507–P	DOT–E 9507	Praxair, Inc., Danbury, CT	49 CFR 173.119, 173.302, 173.304, 173.328, 173.34, 173.346.	To become a party to exemption 9507. (mode 1)
9519–X	DOT–E 9519	Transchem I, Inc., Kearny, NJ	49 CFR 173.119, 173.256, 173.266, 178.19, 178.253, Part 173, Subpart F.	To modify the exemption to provide for an additional tank configuration consisting of two (2) 110 gallon bottles mounted in a metal support structure (cage) for shipment of certain corrosive and flammable liquids and an oxidizer. (modes 1, 2)
9579–P	DOT–E 9579	Ireco of Florida, Inc., Miramar, FL	49 CFR 173.154(a)(18)	To become a party to exemption 9579. (mode 1)
9579–P	DOT–E 9579	OEI, Incorporated, Whitesburg, GA.	49 CFR 173.154(a)(18)	To become a party to exemption 9579. (mode 1)
9606–X	DOT–E 9606	Ensign-Bickford Company, Simsbury, CT	49 CFR 173.66(b)	To modify exemption to provide for modification of packaging method for shipment of detonators, Class A explosive. (modes 1, 3)
9623–P	DOT–E 9623	Sandex, Inc., Las Vegas, NV	49 CFR 177.835(c)(3)	To become a party to exemption 9623. (mode 1)
9710–P	DOT–E 9710	Praxair, Inc., Danbury, CT	49 CFR 173.318, 177.840	To become a party to exemption 9710. (modes 1, 2, 3)
9723–P	DOT–E 9723	Advanced Environmental Technology Corp. (AETC), Flanders, NJ.	49 CFR 177.848(b)	To become a party to exemption 9723. (mode 1)
9723–P	DOT–E 9723	Division Transport, El Dorado, AR	49 CFR 177.848(b)	To become a party to exemption 9723. (mode 1)
9723–P	DOT–E 9723	California Advanced Environmental Technology Corp., Hayward, CA.	49 CFR 177.848(b)	To become a party to exemption 9723. (mode 1)
9723–P	DOT–E 9723	Tri-State Motor Transit Company, Joplin, MO.	49 CFR 177.848(b)	To become a party to exemption 9723. (mode 1)
9723–P	DOT–E 9723	Greenfield Environmental, Carlsbad, CA.	49 CFR 177.848(b)	To become a party to exemption 9723. (mode 1)
9723–P	DOT–E 9723	FCI Transport, Inc., Freehold, NJ	49 CFR 177.848(b)	To become a party to exemption 9723. (mode 1)
9750–P	DOT–E 9750	ICI Explosives USA Inc., Dallas, TX.	49 CFR 173.154(a)(18)	To become a party to exemption 9750. (mode 1)
9769–P	DOT–E 9769	S&W Waste Inc., South Kearny, NJ.	49 CFR 176.83, 177.848	To become a party to exemption 9769. (modes 1, 2, 3)
9817–X	DOT–E 9817	Hoover Group, Inc., Beatrice, NE	49 CFR 173.118a, 173.119, 173.125, 173.266, Part 173, Subpart F.	To authorize cargo vessel as an additional mode of transportation for shipment of certain corrosive and flammable liquids or an oxidizer in non-DOT specification polyethylene portable tanks. (modes 1, 3)
9847–P	DOT–E 9847	Praxair, Inc., Danbury, CT	49 CFR 173.302(c), (2), (3), (4), 173.34(e), Part 107, Appendix B.	To become a party to exemption 9847. (modes 1, 3)
9877–X	DOT–E 9877	Systron Donner Corporation—Safety Systems Div., Concord, CA.	49 CFR 173.304(a)(2), 173.304(b)	To renew and increase maximum volume of cylinder from 10 cubic inches to 80. (mode 1)
9888–X	DOT–E 9888	ABB Advanced Battery Systems Inc., Mississauga, Ontario, CN.	49 CFR Parts 100–199	To increase sodium content per call from 50 to 60 increase cells per enclosure m 360 to 480 and to add rail, water and cargo aircraft as additional modes of transportation. (mode 1)
9888–X	DOT–E 9888	ABB Advanced Battery Systems Inc., Mississauga, Ontario, CN.	49 CFR Parts 100–199	To provide for rail as an additional mode of transportation. (mode 1)
9946–P	DOT–E 9946	Praxair, Inc., Danbury, CT	49 CFR 173.327(a)	To become a party to exemption 9946. (modes 1 2, 3)
9953–P	DOT–E 9953	CMI Transportation, Inc., White Pigeon, MI.	49 CFR 177.834(l)(2)(l)	To become a party to exemption 9953. (mode 1)

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9991–P	DOT–E 9991	TRW Vehicle Safety Systems Inc., Washington, MI.	49 CFR 173.119, 173.302, 173.304, 173.328, 173.34, 173.346.	To become a party to exemption 9991. (mode 1)
9997–P	DOT–E 9997	Traditional Sporting Goods, d/b/a Traditions, Inc., Deep River, CT.	49 CFR 173.107, 173.87	To become a party to exemption 9997. (mode 1)
9998–P	DOT–E 9998	Morrell Incorporated, Auburn Hills, MI.	49 CFR 173.302(a)(1), 175.3	To become a party to exemption 9998. (modes 1, 2, 3, 4)
10001–P	DOT–E 10001	Huber Supply Co., Inc., Mason City, IA.	49 CFR 173.316, 173.320	To become a party to exemption 10001. (mode 1)
10001–P	DOT–E 10001	Bitec Southeast, Inc., Tampa, FL	49 CFR 173.316, 173.320	To become a party to exemption 10001. (mode 1)
10001–P	DOT–E 10001	Praxair, Inc., Danbury, CT	49 CFR 173.316, 173.320	To become a party to exemption 10001. (mode 1)
10001–P	DOT–E 10001	Valley Welding Supply Company, Wheeling, WV.	49 CFR 173.316, 173.320	To become a party to exemption 10001. (mode 1)
10022–P	DOT–E 10022	Bitec Southeast, Inc., Tampa, FL	49 CFR 173.119, 173.245, 173.246, 173.247, 173.251, 173.264, 173.273, 173.3(c), 173.302, 173.304, 173.328, 173.34, 173.346.	To become a party to exemption 10022. (mode 1)
10022–P	DOT–E 10022	Praxair, Inc., Danbury, CT	49 CFR 173.119, 173.245, 173.246, 173.247, 173.251, 173.264, 173.273, 173.3(c), 173.302, 173.304, 173.328, 173.34, 173.346.	To become a party to exemption 10022. (mode 1)
10062–X	DOT–E 10062	Callery Chemical Company, Pittsburgh, PA.	49 CFR 173.206	To modify the exemption of change the heater well on a welded steel cylinder from a schedule 80 stainless steel pipe to a "schedule 40" stainless steel pipe for shipment of potassium metal, classed as a flammable solid. (modes 1, 2, 3)
10114–P	DOT–E 10114	Continental Airlines and Continental Express, Denver, Co.	49 CFR 173.200, 175.10, 175.3	To become a party to exemption 10114. (mode 5)
10138–P	DOT–E 10138	Nalco Chemical Company, Naperville, IL.	49 CFR 172.326(d), 173.334(b)	To become a party to exemption 10138. (mode 1)
10172–X	DOT–E 10172	Hoover Group, Inc., Beatrice, NE	49 CFR 178.19, 178.253, Part 173, Subparts D and F, Section 173.266.	To modify the exemption to provide for cargo vessel as an additional mode of transportation for use in transporting oxidizers in portable tanks. (modes 1, 2)
10184–P	DOT–E 10184	Bitec Southeast, Inc., Tampa, FL	49 CFR 173.34(e)(10), 173.34(e)(9).	To become a party to exemption 10184. (modes 1, 2, 3)
10184–P	DOT–E 10184	Praxair, Inc., Danbury, CT	49 CFR 173.34(e)(10), 173.34(e)(9).	To become a party to exemption 10184. (modes 1, 2, 3)
10184–P	DOT–E 10184	Valley Welding Supply Company, Wheeling, WV.	49 CFR 173.34(e)(10), 173.34(e)(9).	To become a party to exemption 10184. (modes 1, 2, 3)
10193–X	DOT–E 10193	Anderson Company, Gainesville, TX.	49 CFR 173.119, 173.315 and 178.245.	To modify the exemption to provide for various modifications to the non-DOT specification portable tank and to authorize the transportation of various additional commodities. (modes 1, 2, 3)
10238–P	DOT–E 10238	Poly Cal Plastics, Inc., French Camp, CA.	49 CFR Part 173 Subpart D, E, and F.	To become a party to exemption 10238. (modes 1, 2, 3)
10239–P	DOT–E 10239	BASF Corporation, Parsippany, NH.	49 CFR 173.263, 179.200–18(b)(1).	To become a party to exemption 10239. (mode 2)
10239–P	DOT–E 10239	Jones-Hamilton Company, Newark, CA.	49 CFR 173.263, 179.200–18(b)(1).	To become a party to exemption 10239. (mode 2)
10247–P	DOT–E 10247	Kin-Tek Laboratories, Inc., Texas City, TX.	49 CFR 173.4	To become a party to exemption 10247. (modes 1, 2, 4)
10247–P	DOT–E 10247	Thermedics Inc., Woburn, MA	49 CFR 173.4	To become a party to exemption 10247. (modes 1, 2, 4)
10307–X	DOT–E 10307	Olin Chemicals, Stanford, CT	49 CFR 179.200–18, 179.201–1	To modify exemption to authorize additional commodities classed as corrosive material. (mode 2)
10307–X	DOT–E 10307	Olin Chemicals, Stanford, CT	49 CFR 179.200–18, 179–201–1	To authorize sodium hydroxide and potassium hydroxide solutions, classed as corrosive materials as additional commodities. (mode 2)
10307–X	DOT–E 10307	Vulcan Chemicals, Birmingham, AL.	49 CFR 179.200–18, 179.201–1	To authorize the addition of caustic soda and caustic potash in DOT specification 111A100W1/W3 tank cars equipped with a safety vent rupture disc rated at 135 psig. (mode 2)
10307–P	DOT–E 10307	ICI Americas Inc., Wilmington, DE	49 CFR 179.200–18, 179.201–1	To become a party to exemption 10307. (mode 2)
10361–X	DOT–E 10361	American Cyanamid Company, Wayne, NJ.	49 CFR 173.377(a, 175.3, 178.19, 178.251, 178.252.	To authorize decrease in size of top opening in polyethylene portable tanks from 12"–6" and to identify certain cosmetic change to support legs and covers used for shipment of organic phosphate. (modes 1, 2)
10441–P	DOT–E 10441	Findly Chemical Disposal, Inc., Fontana, CA.	49 CFR 177.848	To become a party to exemption 10441. (mode 1)
10442–P	DOT–E 10442	Quantic Industries, Inc., Milpitas, CA.	49 CFR 172.101, 173.154, 173.65, 173.95.	To become a party to exemption 10442.
10480–P	DOT–E 10480	Praxair, Inc., Danbury, CT	49 CFR 172.203, 173.318, 173.320, 176.30, 176.76(h), 178.338.	To become a party to exemption 10480. (modes 1, 3)

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10541–X	DOT–E 10541	Aerojet Propulsion Division, Sacramento, CA.	49 CFR 173.92	To authorize use of different rubber inhibitors as filler in the void between the propellant and dome assembly of a rocket motor configuration. (mode 1)
10594–X	DOT–E 10594	U.S. Department of Energy, Washington, DC.	49 CFR 171.15, 171.16, 172.202, 172.203(c)(1)(i), 172.203(d)(1), 172.310, 172.316(a)(7), 172.331(b)(2), 172.332, 173.403(c), 173.425(c)(1)(iii), 173.425(c)(5), 173.443(a), 174.24, 174.25, 174.45, 174.59, 174.700, 174.715, 177.807, 177.843(a), Part 172, Subparts E and F.	To modify the exemption to clarify the reporting requirements relating to an incident occuring during transportation. (modes 1, 2)
10614–X	DOT–E 10614	Tri-Gas Inc., Irving, TX	49 CFR 173.318, 176.76(h), 178.338.	To reissue an exemption original y issued on emergency basis to authorized shipment of liquid oxygen or liquid nitrogen, nonflammable gases in non-DOT specification portable tanks. (modes 1, 3)
10670–P	DOT–E 10660	DuPont Merck Pharmaceutical Company, Billerica, MA.	49 CFR 172.402(a)(1), 172.403(e), 173.4(a)(1)(i–iii), 173.4(a)(1)(iv).	To become a party to exemption 10660. (modes 1, 4, 5)
10670–P	DOT–E 10660	E.I. du Pont de Nemours & Company, Inc., Boston, MA.	49 CFR 172.402(a)(1), 172.403(e), 173.4(a)(1)(i–iii), 173.4(a)(1)(iv).	To become a party to exemption 10660. (modes 1, 4, 5)
10670–P	DOT–E 10660	Mallinckrodt Medical, Inc., Maryland Heights, MO.	49 CFR 172.402(a)(1), 172.403(e), 173.4(a)(1)(i–iii), 173.4(a)(1)(iv).	To become a party to exemption 10660. (modes 1, 4, 5)
10670–P	DOT–E 10660	Eli Lilly Company, Indianapolis, IN	49 CFR 172.402(a)(1), 172.403(e), 173.4(a)(1)(i–iii), 173.4(a)(1)(iv).	To become a party to exemption 10660. (modes 1, 4, 5)
10670–P	DOT–E 10660	Amersham Corporation/ Mediphysics, Arlington Heights, IL.	49 CFR 172.402(a)(1), 172.403(e), 173.4(a)(1)(i–iii), 173.4(a)(1)(iv).	To become a party to exemption 10660. (modes 1, 4, 5)
10670–P	DOT–E 10660	Bristol Myers Squibb Company, Cranbury, NJ.	49 CFR 172.402(a)(1), 172.403(e), 173.4(a)(1)(i–iii), 173.4(a)(1)(iv).	To become a party to exemption 10660. (modes 1, 4, 5)
10660–P	DOT–E 10660	Chemsyn Science Laboratories, Lenexa, KS.	49 CFR 172.402(a)(1), 172.403(e), 173.4(a)(1)(i–iii), 173.4(a)(1)(iv).	To become a party to exemption 10660. (modes 1, 4, 5)
10785–X	DOT–E 10785	Kay-Ray/Sensall, Inc., a subsidiary of Rosemount, Mt. Prospect, IL.	49 CFR 173.302, 175.3	To reissue an exemption originally issued on an emergency basis to authorize manufacture, marking and sale of radiation detectors containing cylinders of compressed nonflammable or poisonous gas. (modes 1, 2, 3, 4, 5)
10789–P	DOT–E 10789	DXI Industries, Inc., Houston, TX	49 CFR 173.304(a)(2), 173.34 (d) and (e).	To become a party to exemption 10789. (mode 1)
10789–P	DOT–E 10789	DX Systems Company, Houston, TX.	49 CFR 173.304(a)(2), 173.34 (d) and (e).	To become a party to exemption 10789. (mode 1)

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulations(s) affected	Nature of exemption thereof
9740–N	DOT–E 9740	National Aeronautics & Space Administration (NASA) Kennedy Space Center, FL.	49 CFR 173.34(e) the introductory paragraph and the Table, 178.37.	To permit NASA to hydrostatically retest DOT (ICC) 3AA and 3AAX cylinders and certain non-DOT specification cylinders which and in conformance with DOT (ICC) 3AA and 3AAX specifications with exceptions every ten years rather than every five years as specified in 49 CFR 173.34(e). (mode 1)
10204–N	DOT–E 10204	KECO R. & D., Inc., Houston, TX	49 CFR 173.304, 175.3	To authorize the shipment of small quantities of carbonyl sulfide and hydrogen sulfide in diffusion tubes sealed in a capped pipe and packed in a fiberboard box. (modes 1, 4)
10351–N	DOT–E 10351	Warren Petroleum Company/Division of Chevron USA, Tulsa, OK.	49 CFR 173.318 and 178.337	To authorize the use of insulated MC–331 cargo tanks for shipment of ethylene, refrigerated liquid (cryogenic liquid). (mode 1)
10370–N	DOT–E 10370	Welker Engineering Company, Sugar Land, TX.	49 CFR 173.119, 173.304, 175.3 and 178.42.	To authorize the manufacture, marking and sale of non-DOT specification cylinders for gas and oil well sampling of certain flammable liquids, certain liquefied petroleum (LP) gases, certain hydrocarbon gases and certain nonflammable gases. (modes 1, 4)
10433–N	DOT–E 10433	Allied-Signal Aerospace Company, Tempe, AZ.	49 CFR 173.302(a)(2), 178.44	To authorize the manufacture, marking and sale of non-DOT specification welded pressure vessel similar to a DOT–3HT cylinder with certain exceptions, for shipment of helium. (mode 1)

NEW EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulations(s) affected	Nature of exemption thereof
10441–N	DOT–E 10441	Rollins Chempak, Inc., Wilmington, DE.	49 CFR 177.848	To authorize shipment of lab pack quantities of cyanides on the same motor vehicle with various amounts of non-lab packed acidic material not to exceed 55 gallons per container. (mode 1)
10501–N	DOT–E 10501	Semi-Bulk Systems, Inc., St. Louis, MO.	49 CFR 172.331, 173.114a, 173.154, 173.164, 173.178, 173.182, 173.204, 173.217, 173.234, 173.245b, 173.366, 173.367.	To authorize the manufacture, marking and sale of large, reusable, palletized collapsible, lined bulk bags constructed of high strength synthetic fabric having a capacity of approximately 4100 pounds each, equipped with a rigid plastic manhole at the top and a plastic base at the bottom with an air inlet opening for shipment of hazardous materials. (modes 1, 2, 3)
10510–N	DOT–E 10510	CMB Enterprises, Inc., Verona, NJ	49 CFR 173.304, 173.305(c), 173.306(a), (b), (c), 178.33a and 173.1200(a)(8).	To authorize the manufacture, marking and sale of container conforming with DOT Specification 2Q except for size, for the transportation of certain hazardous materials. (modes 1, 2, 3, 4)
10554–N	DOT–E 10554	Cryotech Systems, Inc., Breinigsville, PA.	49 CFR 172.203, 173.318, 173.320, 176.30, 176.76(h), 177.840, 178.338.	To authorize the manufacture, marking and sale of non-DOT specification, insulated portable tanks, for the transportation of nonflammable and flammable gases. (modes 1, 2, 3)
10555–N	DOT–E 10555	HTL/Kin-Tech Division of Pacific Scientific, Duarte, CA.	49 CFR 178.50–9	To authorize the use of a non-DOT approved mounting configuration in the construction of a cylinder patterned after a DOT 4B specification cylinder for shipment of compressed gas. (modes 1, 2, 4, 5)
10631–N	DOT–E 10631	NASA, Washington, DC	49 CFR 173.243, 173.244	To authorize the transportation of various classes of material in specifically designed MC–338 cargo tanks. (mode 1)
10643–N	DOT–E 10643	Thiokol Corporation, Brigham City, UT.	49 CFR 173.92	To authorize the transportation of rocket motors (Class C explosives) in a specifically designed shipping configuration between Thiokol's main plant and testing facility. (mode 1)
10660–N	DOT–E 10660	American Radiolabeled Chemicals, Inc., St. Louis, MO.	49 CFR 172.402(a)(1), 172.403(e), 173.4(a)(1)(i–iii), 173.4(a)(1)(iv).	To exempt from labeling shipments of radioactive materials with secondary hazard classification for transportation by passenger carrying aircraft. (modes 1, 4, 5)
10661–N	DOT–E 10661	Southern Petroleum Laboratories, Inc., Carthage, TX.	49 CFR 178.37	To authorize shipment of residual amounts of flammable liquids and gases contained in test separator vessels, mounted to a trailer, used in measuring oil well productions. (mode 1)
10666–N	DOT–E 10666	Guilberson Division, Dresser Industries, Inc., Dallas, TX.	49 CFR 172.101, 173.62	To authorize the transportation of charged oil well jet perforating guns with initiation devices attached. (modes 1, 3)
10679–N	DOT–E 10679	Assmann Corporation of America, Garrett, IN.	49 CFR 173.119, 173.125, 178.19, 178.253, Part 173, Subpart F.	To authorize the manufacture, marking and sale of non-DOT specification rotationally molded, linear medium density polyethylene portable tank enclosed within a protective steel cage for the shipment of corrosive liquids, flammable liquids, or an oxidizer. (modes 1, 2, 3)
10684–N	DOT–E 10684	Minnesota Valley Engineering, Inc., New Prague, MN.	49 CFR 172.318, 173.320, 176.30, 176.76(h) and 178.338.	To authorize the manufacture, marking and sale of a non-DOT specification insulated portable tank for the shipment of nitrogen, refrigerated liquid. (modes 1, 3)
10688–N	DOT–E 10688	Peninsula Airways Inc., Kodiak, AK.	49 CFR 175.310(c)	To authorize the transportation of fuel in five gallon polyethylene containers overpacked in wooden boxes for carriage in small passenger carrying aircraft within the state of Alaska. (mode 5)
10695–N	DOT–E 10695	3M, Surgical Division, St. Paul, MN.	49 CFR 172.101, 172.400(b), 172.504(e).	To authorize the transportation of ethylene oxide, in metal cars, without poison B labels and placards. (modes 1, 2)
10714–N	DOT–E 10714	FIBA Compressed Gas Equipment, Westboro, MA.	49 CFR 173.304(a)(2)	To authorize the use of DOT Specification 3A, 3AAX and 3T cylinders forming part of a tube trailer or tube skids, for transportation of fluorocarbon trifluoromethane, classed as a non-flammable liquefied gas. (modes 1, 3)
10725–N	DOT–E 10725	Coresa S.A., Santiago, Chile	49 CFR 172.331, 173.154, 173.164, 173.178, 173.182, 173.204, 173.217, 173.234, 173.245(b), 173.366.	To authorize the shipment of certain hazardous materials in polyethylene-lined polypropylene flexible intermediate nonreusable bulk bags. (modes 1, 2, 3)
10727–N	DOT–E 10727	United States Environmental Protection Agency, Denver, CO.	49 CFR 173.403	To authorize the bulk shipment of soils and debris contaminated with a radioactive material (Radium) from Superfund cleanup site to a disposal facility. (mode 2)
10732–N	DOT–E 10732	Burke Transport, dba, LPF/Griffin-Payne Equipment, Hutchinson, KS.	49 CFR 173.304, 173.315	To authorize the use of a non-DOT specification container described as a mechanical displacement meter prover tank for the shipment of certain flammable gases. (mode 1)

NEW EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulations(s) affected	Nature of exemption thereof
10738–N	DOT–E 10738	R.M.I. Division of Koala Technologies, Gardena, CA.	49 CFR 173.118a, 173.119, 173.256, 173.266, 176.340, 178.19, 178.253.	To manufacture, mark and sell a 300 gallon non-DOT specification, rotationally molded, polyethylene tank equipped with bottom outlet designed to be stackable for use in transporting various classes of hazardous material. (modes 1, 2)
10757–N	DOT–E 10757	BW/IP International, Inc., Van Nuys, CA.	49 CFR 173.302(a)94), 175.3, 178.65.	To authorize the manufacture, mark and sell of non-DOT specification cylinder for a one-time shipment of helium, classed as nonflammable gas. (modes 1, 2, 4)
10764–N	DOT–E 10764	Snyder Industries, Inc., Lincoln, NE.	49 CFR 173, 173.119, 173.125, 173.245, 173.249, 173.249(a), 173.250(a), 173.257, 173.262, 173.263, 173.264, 173.265, 173.268, 173.269, 173.272, 173.276, 173.277, 173.283, 173.287, 173.288, 173.289, 173.292, 173.297, 173.299(a).	To authorize the manufacture, mark and sell of rotationally molded polyethylene portable tank for the shipment of certain hazardous materials. (modes 1, 2)
10765–N	DOT–E 10765	Calibron Systems, Inc., Scottsdale, AZ.	49 CFR 173.119, 173.304, 173.315.	To authorize the manufacture, mark and sell of meter proving units to be affixed to a truck or trailer used to calibrate meters containing liquid hydrocarbon products. (mode 1)
10772–N	DOT–E 10772	Gardner Cryogenics, Bethlehem, PA.	49 CFR 178.338–18(a)(1), 178.338–4(c).	To authorize the transportation of hydrogen, refrigerated liquid, classed as a flammable gas, in non-DOT specification cargo tanks constructed of 304N stainless steel with intersecting welds and nozzles. (mode 1)
10775–N	DOT–E 10775	Elkhart Plastics, Incorporated, Middlebury, IN.	49 CFR 173, 173.119, 173.125, 173.245, 173.249, 173.249(a), 173.250(a), 173.256, 173.257, 173.262, 173.263, 173.264, 173.265, 173.266, 173.269, 173.272, 173.276, 173.277, 173.283, 173.287, 173.288, 173.289, 173.292, 173.297, 173.299(a).	To authorize the manufacture, mark and sell of composite intermediate bulk container with a capacity up to 330-gallons, consisting of a rotationally molded polyethylene inner receptacle within a wire frame outer casing, for the shipment of certain hazardous materials. (modes 1, 2)
10776–N	DOT–E 10776	P.S.I. Plus, Inc., Middletown, CT	49 CFR 173.302(a)(1), 173.304, 175.3, 178.42.	To authorize the manufacture, mark and sell of non-DOT specification steel cylinders comparable to a DOT specification 3E for use in transporting certain hazardous materials. (modes 1, 2, 3, 4, 5)
10777–N	DOT–E 10777	SIGRI Corporation, Bedminster, NJ.	49 CFR 173.119, 173.302, 173.304, 173.327, 173.328, 173.34, 173.346.	To authorize the manufacture, mark and sell of non-DOT specification salvage cylinder constructed of carbon steel for overpacking damaged or leaking packages of hazardous materials. (mode 1)
10787–N	DOT–E 10787	Emery Worldwide Airlines, Vandalia, OH.	49 CFR 172.101, 172.204(c)(3), 173.27, 173.54(j), 175.30(a)(1), 175.320(b), 175.75, Part 107, Appendix B.	To authorize the transportation of Class A, B and C explosives that are not permitted for shipment by air, or are in quantities greater than those prescribed for shipment by air. (mode 4)
10789–N	DOT–E 10789	DPC Industries, Inc., Houston, TX	49 CFR 173.304(a)(2), 173.34 (d) and (e).	To authorize the use of a non-DOT specification full open head, steel salvage cylinder for overpacking damaged or leaking chlorine cylinders. (mode 1)
10795–N	DOT–E 10795	Mobil Oil Corporation, Fairfax, VA	49 CFR 173.31(b)(1), 174.67(a)(7)	To authorize an alternative method of blocking wheels of each car of unit train during loading and unloading and to require the opening of bottom discharge outlet caps of each car during loading of gasoline and fuel oil. (mode 2)
10796–N	DOT–E 10796	GE Aerospace, King of Prussia, PA.	49 CFR 173.416(c), Part 107, Appendix B to Subpart B, Paragraph 1.	To authorize a one-time domestic shipment of two packages of radioactive materials which are certified for import and export shipment only. (mode 1)
10809–N	DOT–E 10809	Enviro Pax, Inc., W. Caldwell, NJ	49 CFR 173.245b, 173.365	To authorize the manufacture, marking and sell of a non-DOT specification bulk fiberboard box for shipment of certain corrosive and poison B solids, n.o.s. (modes 1, 2)

EMERGENCY EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 4453–X	DOT–E 4453	Gibson Explosives Products, Inc., Duffield, VA.	49 CFR 172.101, 173.114a(h)(3), 176.415, 176.83.	To authorize the use of a non-DOT specification bulk, hopper-type tank for transportation of blasting agent, n.o.s. or ammonium nitrate-fuel oil mixtures. (modes 1, 3)
EE 6614–X	DOT–E 6614	B's Pool Supplies, Ontario, CA	49 CFR 173.263(a)(28), 173.277(a)(6).	To authorize the use of non-DOT specification polyethylene bottles, packed inside a high density polyethylene box, for transportation of certain corrosive liquids. (mode 1)

EMERGENCY EXEMPTIONS—Continued

Application No	Exemption No	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 7891–X	DOT–E 7891	Farchan Laboratories, Inc., Gainesville, FL.	49 CFR 172.400, 172.402(a)(2), 172.402(a)(3), 172.504 Table 1, 172.504(a), 173.126, 173.138, 173.237, 173.246, 173.25(a), 175.3.	To authorize the transport of packages bearing the DANGEROUS WHEN WET label, in motor vehicles which are not placarded FLAMMABLE SOLID W. (modes 1, 2, 3)
EE 8582–X	DOT–E 8582	Iowa Interstate Railroad, Ltd., Iowa City, IA.	49 CFR Parts 100–177	To authorize the transport of railway track torpedoes and fusees packed in metal kits in motor vehicles by railroad maintenance crew as nonregulated rail carrier equipment. (mode 1)
EE 8723–X	DOT–E 8728	Alaska-Pacific Powder Company, Anchorage, AK.	49 CFR 172.101, 173.114a(h)(3), 173.154, 176.415, 176.83.	To authorize the use of non-DOT specification motor vehicles for bulk shipment of certain blasting agents. (modes 1, 3)
EE 9275–X	DOT–E 9275	Upjohn Company, Kalamazoo, MI	49 CFR Parts 100–199	To authorize further exceptions to specification packaging, marking and labeling requirements for certain ethyl alcohol formulations. (modes 1, 2, 3, 4)
EE 9332–X	DOT–E 9332	Johnson Matthey Company, West Chester, PA.	49 CFR 172.101, 173.150, 175.3	To authorize the transport of a solid explosive dissolved in an ammonia solution as a flammable solid in DOT Specification 34 polyethylene containers or DOT Specification 3E polyethylene bottles, packed in DOT Specification 15A wooden boxes. (modes 1, 2, 3)
EE 10227–X	DOT–E 10227	Minnesota Valley Engineering, Inc., New Prague, MN.	49 CFR 173.316, 175.3, 178.57(8)(b), 178.57–2, 178.57–8(c).	To authorize the manufacture, marking and sale of insulated non-DOT specification cylinders for shipment of liquid oxygen. (mode 1)
EE 10614–X	DOT–E 10614	TRI-GAS Inc., Irving, TX	49 CFR 173.318, 176.76(h), 178.338.	To authorize the use of vacuum insulated portable the transportation of liquid oxygen and liquid nitrogen. (modes 1, 3)
EE 10652–P	DOT–E 10652	Battelle, Pacific Northwest Laboratories, Richland, WA.	49 CFR 173.328	To become a party to exemption 10652. (mode 1)
EE 10748–X	DOT–E 10748	McGill Specialized Carriers, Inc., Marrietta, GA.	49 CFR 177.825(b) and Part 107, Appendix B(1).	To authorize the transport of radioactive material; using an alternative route which is not a state designated route, or an interstate. (mode 1)
EE 10761–N	DOT–E 10761	Air New Zealand Limited, Auckland, New Zealand.	49 CFR 173.21, 173.118, 175.30, 17D.85, Part 107, Appendix B; Part 172.	To authorize the carriage of small quantities of a flammable liquid in safety lamps in the cabin compartment of a passenger carrying aircraft. (mode 5)
EE 10768–N	DOT–E 10768	Sun Refining and Marketing Company, Philadelphia, PA.	49 CFR 173.29(c)(1) and 174.64(k).	To authorize the transportation of two DOT Specification 111A100W1. tank cars which have defective interior heating coils. (mode 2)
EE 10769–N	DOT–E 10769	PPG Industries, Incorporated, Pittsburgh, PA.	49 CFR 173.29(c)(2)	To authorize the transportation of a DOT Specification 105A500W tank car which is overdue for tank and safety valve tests. (mode 2)
EE 10779–N	DOT–E 10779	Hughes Aircraft Company, Los Angeles, CA.	49 CFR 173.416(c), Part 207, Appendix B 5o Subpart B, Paragraph (1).	To authorize the one-time domestic shipment of three packages of radioactive materials which are certified for import and export shipment only. (mode 1)
EE 10780–N	DOT–E 10780	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE.	49 CFR 173.346(a)(10)	To authorize a one-time shipment of seven Association of American Railroads proposed DOT Specification 120A400W tank cars. (mode 2)
EE 10781–N	DOT–E 10781	Mobil Chemical Company, Princeton, NJ.	49 CFR 173.187	To authorize a one-time shipment of certain pyrophoric solid material, UN 2846, with a nitrogen gas pad, in DOT specification cylinders. (mode 1)
EE 10783–N	DOT–E 10783	Sun Refining and Marketing Company.	49 CFR 173.29(c)(1) and 174.67(k).	To authorize the transportation of a DOT Specification 111A100W1 tank car which has defective interior heating coils for shipment of petroleum naphtha. (mode 2)
EE 10783–X	DOT–E 10783	Sun Refining and Marketing Company.	49 CFR 173.29(c)(1) and 174.67(k).	To authorize the transportation of a DOT Specification 111A100W1 tank car which has defective interior heating coils for shipment of petroleum naphtha. (mode 2)
EE 10784–N	DOT–E 10784	U.S. Department of the Treasury, Washington, DC.	49 CFR 173.25, 175.85, Part 107, Appendix B to Subpart B, Part 172, Subpart C.	To authorize the shipment of oxygen in DOT Specification 3AA2015 cylinders in the passenger compartment of commercial aircraft. (mode 5)
EE 10785–N	DOT–E 10785	Kay-Ray/Sensall, Inc., a subsidiary of Rosemount, Mt. Prospect, IL.	49 CFR 173.302, 175.3	To authorize the manufacture, marking and sale of non-DOT specification containers (radiation detection chamber) in certain non-contacting measurement systems. (modes 1, 2, 3, 4, 5)
EE 10793–N	DOT–E 10793	Olin Corporation, Stamford, CT	49 CFR 173.29(a)	To authorize the transportation of a DOT Specification 105J500W tank car which is overdue for tank and safety valve tests for shipment of chlorine. (mode 2)
EE 10808–N	DOT–E 10808	The U.S. Department of Justice, FBI, Seattle, WA.	49 CFR 172.101 table, column (9B), 173.56 and 173.62.	To authorize the shipment of PETN, a Class A explosives which isidden for shipment by cargo aircraft and safety fuse, a Class C explosive. (mode 4)
EE 10811–N	DOT–E 10811	Metamine France S.A., Cedex, France.	49 CFR 173.241	To authorize a one-time shipment of 15 polypropylene bulk bags containing calcium silicon enclosed in a freight container. (mode 1)

EMERGENCY EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 10813–N	DOT–E 10813	Intertrans Services Incorporated, Monmouth, NJ.	49 CFR 173.29(c)(2)	To authorize the transportation of DOT Specification 105A500W tank car with a defective liquid angle valve, equipped with a safety "C" kit. (mode 2)
EE 10814–N	DOT–E 10814	Lorad Corporation, Danbury, CT .	49 CFR 173.302, 175.3	To authorize the manufacture, marking and sale of an industrial X-ray instrumentation for the transportation of nonliquefied sulfur hexafluoride. (modes 1, 2, 3, 4, 5)
EE 10815–N	DOT–E 10815	Fomo Products Inc., Norton, OH .	49 CFR 173.34(d), 178.65–10, Part 107, Appendix B, Paragraph (1).	To authorize the shipment of certain DOT Specification 39 cylinders which may be fitted with pressure relief devices not in conformance with the specification requirements. (modes 1, 2, 3)
EE 10815–P	DOT–E 10815	Insta-Foam Products, Inc., Joliet, IL.	49 CFR 173.34(d), 178.65–10, Part 107, Appendix B, Paragraph (1).	To become a party to exemption 10815. (modes 1, 2, 3)
EE 10815–P	DOT–E 10815	Clayton Corporation, Fenton, MO	49 CFR 173.34(d), 178.65–10, Part 107, Appendix B, Paragraph (1).	To become a party to exemption 10815. (modes 1, 2, 3)
EE 10815–P	DOT–E 10815	Macklanburg Duncan, Polycel, Fort Worth, TX.	49 CFR 173.34(d), 178.65–10, Part 107, Appendix B, Paragraph (1).	To become a party to exemption 10815. (modes 1, 2, 3)
EE 10830–N	DOT–E 10830	Allied-Signal Inc., Morristown, NJ	49 CFR 173.34(d), 178.65–10, Part 107, Appendix B, Paragraph 1.	To authorize the one-time shipment of certain DOT Specification 39 cylinders which may have pressure relief devices not in conformance with the specification requirements. (mode 1)
EE 10842–N	DOT–E 10842	High Point Chemical Corporation, High Point, NC.	49 CFR 173.29(a), 173.31(c) Retest Table 1.	To authorize the transportation of DOT specification 105A500W tank car, for the shipment of chlorine. (mode 2)
EE 10849–N	DOT–E 10849	ELF Atochem North America, Inc., Philadelphia, PA.	49 CFR 173.29(c)(2)	To authorize the transportation of a DOT Specification 105A500W tankar, containing chlorine, with a defective liquid angle valve, equipped with a chlorine "C" kit. (mode 2)
EE 10852–N	DOT–E 10852	Hoechst Celanese Corporation, Charlotte, NC.	49 CFR 173.242	To authorize the shipment of chloroacetic acid solid, contained in collapsible, nonreusable woven plastic bags having a capacity of approximately 2102 pounds each. (modes 1, 3)
EE 10853–N	DOT–E 10853	Korean Air Lines Company Limited, Los Angeles, CA.	49 CFR 172.10 table, column (6)(b),	To authorize the shipment of explosives which are forbidden or exceed quantity limitations authorized for transportation by cargo aircraft. (mode 2)
EE 10862–N	DOT–E 10862	Chemical Waste Management, Inc., Benecia, CA.	49 CFR 173.240, 173.242	To authorize the highway transportation of 3000 tons of corrosive solid waste sludge in semi-trailer end-dump vehicles lined with a double layer of polyethylene, covered with custom fitted canvas. (mode 1)
EE 10863–N	DOT–E 10863	ICI Americas, Incorporated, Wilmington, DE.	49 CFR 173.29(c)	To authorize the transportation of a DOT Specification 110A500W tank car, containing a refrigerant gas (1, 1, 1, 2—Tetrafluoroethane), with a defective valve, equipped with an emergency "B" Kit. (mode 1)
EE 10864–N	DOT–E 10864	Sanwey Industria DE Continer, Ltda., San Paulo, Brazil.	49 CFR 172.331, 173.114a, 173.154, 173.164, 173.178, 173.182, 173.204, 173.217, 173.234, 173.245b, 173.366, 173.367.	To authorize the manufacture, marking and sale of large, collapsible nonreusable polyethylene-lined woven polypropylene bulk bags having a capacity not to exceed 2208 pounds for 6.5 oz. polypropylene material and 2583 pounds for 8 oz. polypropylene material and top and bottom outlets, for shipment of certain hazardous materials. (modes 1, 2, 3)
EE 10870–N	DOT–E 10870	Anderson Products, Inc., Chapel Hill, SC.	49 CFR 172.101, 172.400, 172.504, 173.323, 174.81 and 177.848.	To authorize domestic transportation by rail and highway of ethylene oxide packaged in glass ampoules within a fiberboard box with a flammable gas (Division 2.1) label instead of both poison gas (Division 2.3) and flammable gas labels. (modes 1, 2)
EE 10881–N	DOT–E 10881	The TACC International Corporation, Rockland, MA.	49 CFR 173.32	To authorize the shipment of an adhesive, with a flash point of less than 0 degrees Fahrenheit, classed as a flammable liquid, contained in DOT Specification 37C drums of 5 gallons capacity. (mode 1)
EE 10890–N	DOT–E 10890	Elf Atochem North America, Inc., Philadelphia, PA.	49 CFR 173.315(i)	To authorize one-time transportation of a DOT Specification MC–331 cargo tank with a defective safety relief valve for the transportation of residual amounts of chlorine. (mode 1)

WITHDRAWAL EXEMPTIONS

Application	Applicant	Regulation(s) affected	Nature of exemption thereof
4453–X	Thermex Energy Corporation, Dallas TX.	49 CFR 172.101, 173.114a(h)(3), 176.415, 176.83.	To authorize the use of non-DOT specification bulk, hopper-type tank for transportation of blasting agent, n.o.s. or ammonium nitrate-fuel oil mixtures. (modes 1, 3)
6765–X	Air Products Chemicals Inc., Gardner Cryogenic Dl Lehigh Valley, PA.	49 CFR 172.203, 173.318, 173.320, 176.30, 176.76 (h), 177.840, 178.338.	To authorize the use of non-DOT specification portable tanks for transportation of a flammable and a nonflammable gases. (modes 1, 3)
6824–X	Bio-Lab, Incorporated, Decatur, GA	49 CFR 173.154, 173.217(a)	To authorize packagings not provided for in the Hazardous Materials Regulations, for shipment of certain oxidizing materials. (modes 1, 2, and 3)
7477–X	Systron Donner/Safety Systems, Division, Concord, CA.	49 CFR 173.302(a)(1), 173.304(a)(1), 175.3.	To authorize the use of non-DOT specification seamless aluminum cylinders, for transportation of certain nonflammable compressed gases. (modes 1, 3, and 4)
7909–P	DowBrands, Inc., Indianapolis, IN	49 CFR 172.203, 172.400, 172.402(a)(2), 172.402(a)(3), 172.504(a), 173.345(a), 173.359(c), 173.364(a), 173.370(b), 173.370(d), 173.377(f), 175.3, 175.30, 175.33.	To become a party to exemption 7909. (modes 1, 2)
7909–P	Marion Merrell Dow, Inc., Cincinnati, OH.	49 CFR 172.203, 172.400, 172.402(a)(2), 172.402(a)(3), 172.504(a), 173.345(a), 173.359(c), 173.364(a), 173.370(b), 173.370(d), 173.377(f), 175.3, 175.30, 175.33.	To become a party to exemption 7909. (modes 1, 2)
8059–X	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.302(a)(1), 173.304(a), 173.304(d), 175.3.	To authorize the manufacturer, marking and sale of non-DOT specification fiber reinforced plastic full composite cylinders for transportation of certain flammable and nonflammable compressed gases. (modes 1, 2, 3, 4, and 5)
8063–P	Akron Welding and Spring Co., d/b/a Parry Corp., North Royalton, OH.	49 CFR 173.304(a)	To become a party to exemption 8063. (mode 1)
8162–P	Northrop Corporation, Pico Rivera, CA	49 CFR 173.302(a)(1), 173.304(a)(1), 175.3.	To become a party to exemption 8162. (modes 1, 2, 3, 4, and 5)
8249–X	LPS Industrial, Inc., Newark, NJ	49 CFR 172.400, 172.402(a)(2), 172.402(a)(3), 172.504(a) and Table 1, 173.126, 173.138, 173.237, 173.246, 173.25(a), 173.3, 175.3.	To authorize transport of packages bearing the DANGEROUS WHEN WET label in motor vehicles which are not placarded FLAMMABLE SOLID W. (modes 1, 2, and 4)
8287–P	Nalco Chemico Company, Naperville, IL	49 CFR 173.245(a)(16), 173.245(a)(26), 178.19–4(c), 178.35a–2(b).	To become a party to exemption 8287. (modes 1, 2, and 3)
8554–X	Olson Explosives, Inc., Decorah, IA	49 CFR 173.114a, 173.154, 173.93	To authorize the transport of propellant explosives and blasting agents in DOT Specification MC–306, MC–307, and MC–312 cargo tanks. (modes 1, 3)
8815–X	ICI Explosives USA, Inc. Dallas, TX	49 CFR 173.114a(b)	To authorize the transport of certain blasting agents in a cement mixer motor vehicle. (mode 1)
8977–X	Eurotainer, USA, Somerset, NJ	49 CFR 173.315, 178.245	To authorize use of a non-DOT specification IMO-Type 5 portable tank, for transportation of liquefied compressed gases. (modes 1, 2, and 3)
8990–P	Akron Welding and Spring Co. d/b/a Parry Corp., North Royalton, OH.	49 CFR 173.302(a)(1), 175.3, 178.65–2, 178.65–5(a)(4).	To become a party to exemption. (modes 1, 2, 3, 4, and 5)
9256–X	U.S. Department of Energy, Washington, DC.	49 CFR 173.86, 175.30, 46 CFR 146.20–13, Part 107, Appendix B., Subpart B(1).	To authorize the shipment of new explosives, under a tentative hazard classification, to test facilities without marking them as laboratory samples and without being accompanied by a qualified explosives handler. (modes 1, 2, 3, and 4)
9265–X	Guinn Flying Service, Houston, TX	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To modify the exemption to authorize one pilot aboard a multi-engine aircraft carrying explosives. (mode 4)
9419–P	Akron Welding and Spring Co., d/b/a Parry Corp., North Royalton, OH.	49 CFR 173.302(c)(2), 173.302(c)(3), 173.302(c)(4), 173.34(e), Part 107, Appendix B.	To become a party to exemption 9419. (modes 1, 3)
9623–X	IRECO, Incorporated, Salt Lake City, UT.	49 CFR 177.835(c)(3)	To authorize transport of a blasting agent or an oxidizer in a DOT Specification MC–306 or MC–307 cargo tank with a storage box containing Class A explosives Mounted directly behind the tractor cab. (mode 1)
9692–X	Halliburton Company, Duncan, OK	49 CFR 173.119(m)	To authorize use of DOT Specification 57 portable tanks for shipment of a dual hazard (flammable liquid/corrosive to skin only) material. (mode 1)
9692–X	Halliburton Company, Duncan, OK	49 CFR 173.119(m)	To authorize transport of limited quantities of liquid sodium potassium alloy packaging bearing the DANGEROUS WHEN WET label in motor vehicles and rail cars which are not placarded FLAMMABLE SOLID W. (mode 1)
9723–X	Aqua-Tech, Inc., Port Washington, WI	49 CFR 177.848(b)	To authorize shipment of "lab-packs" containing cyanides and cyanide mixtures with "lab-packs" containing acids and corrosive liquids in the same transport vehicle. (mode 1)
9866–N	Akzo Coatings America, Inc., Troy, MI	49 CFR 173.128	To authorize shipments of paint, classed as a flammable liquid, in non-DOT specification packagings, described as pressure fluid and paint spray tanks. (mode 1)
9943–N	Nalco Chemical Company, Naperville, IL.	49 CFR 173.32, Part 107, Subpart B, Appendix B.	To authorize the loading and unloading of materials classed flammable liquid, combustible liquid and corrosive material in portable tanks secured to a motor vehicle. (mode 1)
9986–N	PSC Environmental Management, Pecationica, IL.	49 CFR 173.154, 173.245b, 173.365, 173.510.	To authorize transport of various solid or semi-solid waste hazardous materials, classed as Flammable solid, Organic peroxide, Oxidizer, Corrosive material, Poison B and ORM, in non-DOT Specification fiber drums. (mode 1)

WITHDRAWAL EXEMPTIONS—Continued

Application	Applicant	Regulation(s) affected	Nature of exemption thereof
10020–P	Clean Earth Manufacturing, Inc., Birmingham, AL.	49 CFR 173.245b	To become a party to exemption 10020. (mode 1)
10071–N	S.A.F.E. Systems, Inc., Decatur, GA	49 CFR 173.306, 175.3, 178.33a–9	To authorize the shipment of a charged fire extinguisher constructed similarly to the DOT Specification 2Q cylinder except it has not been properly marked. (modes 1, 3, 4, and 5)
10072–N	Nupro Company Willoughby, OH	49 CFR 173.327(a)	To authorize use of a bellows valve in cylinders containing a Class A poison. (mode 1)
10313–N	Atochem, Inc. Glen Rock NJ	49 CFR 178.115–10(a)	To authorize shipment of dimethylethylamine, classed as flammable and corrosive liquid n.o.s. in 17C drum with stenciled markings. (mode 1)
10342N	Container Products Newnan, GA	49 CFR 178.16–19(a)(3)	To authorize use of wheel style month and year of manufacture date clock with characters less than the required ¼ inch minimum size for marking DOT-specification 35 containers. (mode 1)
10418–N	Olin Chemical Stanford, CT	49 CFR 173.245(a), 173.249(a)(5), 173.263(a)(9), 173.272(i)(22), 179.200–18(b).	To authorize the transportations of corrosive material in tank cars with a ½" opening in the approach channels to the safety vents. (mode 2)
10437–N	Williams International, Walled Lake, MI	49 CFR 173.106(a), 173.306	To authorize transportation of an igniter class C explosive and oxygen bottle assembly, oxidizer, non-flammable gas installed on a gas turbine engine overpacked in a polyethylene type container. (modes 1, 2, and 4)
10451–N	Hoechst Celanese Corporation, Dallas, TX.	49 CFR 173.119(a)(3)	To authorize the one time shipment of triethylamine, classed as flammable liquid, in DOT Specification 17E 20/18 gauge steel drums. (mode 1)
10470–N	Buckeye International, Inc., Maryland Heights, MO.	49 CFR 178.21, 178.24, 178.27, 178.35, 178.35(a).	To authorize the shipment of compound, cleaning, liquid, classed as corrosive material, in an inner ply double-wall polyethylene bag with a wall thickness of 2 mils overpacked in a non-DOT specification fiberboard box. (mode 1)
10490–N	Goex International, Inc., Cleburne, TX	49 CFR 173.100(v)	To authorize transportation of tubing cutters containing more than 23 grams, but not more than 39 grams of high explosives to be classes as a class C explosive. (modes 1, 2, 3, 4, and 5)
10559–N	Nalco Chemical Company, Naperville, IL.	49 CFR 173 Subpart D, E, and F	To authorize the manufacture, marking and sell of non-DOT specification polyethylene portable tanks enclosed in a steel frame in 200 gallon and 400 gallon sizes for shipment of hazardous materials classed as oxidizers, corrosives and flammable liquids. (modes 1, 2, and 3)
10774–N	Applied Data Technology, Inc., Elmendoft AFT, AK.	49 CFR 172.101 table, Column 6	To authorize the shipment of liquefied petroleum gas, classed as a flammable gas in 6,000 gallon capacity DOT Specification 51 skid mounted portable tanks by cargo aircraft to remote areas in Alaska. (mode 4)

DENIALS

8723–X ..... Request by Atlas Powder Company Dallas, TX to authorize use of non-DOT specification motor vehicles and portable tanks, for bulk shipment of certain blasting agents denied April 9, 1992.

9052–X ..... Request by Chemical Handling Equipment Company, Inc. Toledo, OH to authorize use of a non-DOT specification rotationally molded, cross-linked or linear polyethylene portable tank enclosed in a steel cage or hardwood overpack for the shipment of corrosive liquids, flammable liquids or an oxidizer denied April 30, 1992.

9164–X ..... Request by Fabricated Metals, Inc. San Leandro, CA to authorize resin solution, classed as flammable liquid, as an additional commodity denied July 7, 1992.

10115–N ..... Request by Atlas Powder Company Dallas, TX to authorize shipment of a liquid propellant explosive, classed as a Class B explosive in DOT Specification 6D or 6J drums with a DOT Specification 2S PE liner denied April 9, 1992.

10130–X ..... Request by UF Strainrite Lewiston, ME to authorize manufacture, marking and sale of collapsible, disposable polyethylene-lined woven polypropylene bulk bags for shipment of flammable solids, corrosive solids, oxidizers, and poison B solids denied May 22, 1992.

10208–N ..... Request by Sensidyne, Inc. Clearwater, FL to auth. shipment of limited quantities of Class B poisons & Class A poisons in 10m1 glass ampules, flame sealed, with 5 ampules sealed in heat-sealed wrap with 2 of these packets in an intermediate cont., encapsulated in a heat-sealed bag overpacked in a 600lb test double-wall fiberboard box denied April 9, 1992.

10212–N ..... Request by Puerto Rico Marine Management, Inc. Sam Juan, PR to authorize use of IM101 and 102 and IMO designation types 1 and 2 without marking the name of the hazardous material on them denied May 4, 1992.

10213–N ..... Request by Occidental Chemical Corporation Dallas, TX to authorize shipment of various hazardous materials in quantities not to exceed 5 gallons without complying with the packaging, marking, and labeling requirements when being shipped between sections of a plant separated by a public road and between operations 2.9 miles apart denied April 30, 1992.

10217–N ..... Request by Moli Energy, Limited Burnaby, B.C., Canada to authorize transportation of four cell series—paralled connected lithium batteries without diodes denied April 9, 1992.

10270–N ..... Request by High Island Offshore System Sabine Pass, TX to authorize shipping certification for methane and helium gas sample cylinders to be executed from a main production platform rather than from each of 95 offshore platforms denied August 24, 1992.

10464–N ..... Request by Liquid Air Corporation Walnut Creek, CA to authorize an alternative method for periodic retesting and reinspection of certain DOT Specification cylinders used for shipment of compressed gas denied September 11, 1992.

10673–N ..... Request by Southern Air Transport Miami, FL to authorize the transportation of dimethylhydrazine, classed as flammable liquid and nitrogen tetroxide classed as Poison A in 55 gallon DOT Specification containers aboard cargo only aircraft denied September 11, 1992.

10699–N ..... Request by Union Pacific Railroad Company Omaha, NE to authorize the transport of gasoline in non-DOT specification 5 gallon containers in company owned and operated maintenance vehicles denied June 29, 1992.

10699–P ..... Request by Missouri Pacific Railroad Company Omaha, NE to authorize the transport of gasoline in non-DOT specification 5 gallon containers in company owned and operated maintenance vehicles denied June 29, 1992.

10703–N ..... Request by Advanced Delivery & Chemical Systems, Inc. Austin, TX to authorize the shipment of 1.3 ounce stainless steel container inside a carbon steel can overpacked in a 19B wooden box for shipment of a corrosive material denied May 18, 1992.

10737–N ..... Request by Foam-Tech, Inc. N. Thetford, VT to exempt from placarding privately owned vehicles containing various amounts of non-flammable refrigerant gases denied April 22, 1992.

10763–N ..... Request by Reliant Airlines Ypsilanti, MI to authorize the transportation of Class A and B explosives which are forbidden or exceed the quantity limitations authorized for shipment by air denied August 1, 1992.

DENIALS—Continued

10805–N ..... Request by Landers Propane Higgins, TX to authorize the transport of propane, classed as a flammable gas in non-DOT specification cargo tanks denied September 28, 1992.

Issued in Washington, DC, on January 25, 1993.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 93–3105 Filed 2–9–93; 8:45 am]

BILLING CODE 4910–60–M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 26
Wednesday, February 10, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at 11:05 a.m. on Friday, February 5, 1993, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider a request for a waiver of the cross-guaranty provisions of the Federal Deposit Insurance Act.

In calling the meeting, the Board determined, on motion of Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), seconded by Director Stephen R. Steinbrink (Acting Comptroller of the Currency), and concurred in by Acting Chairman Andrew C. Hove, Jr., that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550–17th Street, NW., Washington, DC.

Dated: February 5, 1993.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 93–3204 Filed 2–5–93; 4:23 pm]

BILLING CODE 6714-0-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Tuesday, February 16, 1993.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: February 5, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–3208 Filed 2–5–93; 5:04 pm]

BILLING CODE 6210-01-M

FOREIGN CLAIMS SETTLEMENT COMMISSION

F.C.S.C. Meeting Notice No. 6–93

Announcement in Regard to Commission Meetings and Hearings

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date, Time, and Subject Matter

Wed., February 24, 1993 at 10:30 a.m.—Consideration of Proposed Decisions on claims against Iran.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 601 D Street, NW., Washington, DC. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 601 D Street, NW., Room 10000, Washington, DC 20579. Telephone: (202) 208–7727.

Dated at Washington, D.C. on February 8, 1993.

Judith H. Lock,

Administrative Officer.

[FR Doc. 93–3318 Filed 2–8–93; 2:17 pm]

BILLING CODE 4410-01-M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of February 8, 1993.

A closed meeting will be held on Tuesday, February 9, 1993, at 2:30. p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Schapiro, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Tuesday, February 9, 1993, at 2:30 p.m., will be:

Institution of injunctive actions.
Institution of administrative proceedings of an enforcement nature.
Settlement of injunctive actions.
Settlement of administrative proceeding of an enforcement nature.
Subpoena enforcement action.
Opinions.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Holly Smith at (202) 272–2100.

Dated: February 5, 1993.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–3256 Filed 2–8–93; 11:29 am]

BILLING CODE 8010-01-M

Corrections

Federal Register
Vol. 58, No. 26
Wednesday, February 10, 1993

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2619 and 2676

RIN 1212-AA61

Valuation of Plan Benefits in Single-Employer Plans; Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal

Correction

In proposed rule document 93-1114 beginning on page 5128 in the issue of Tuesday, January 19, 1993, make the following corrections:

§ 2619.43 [Corrected]

1. On page 5133, in the third column, in § 2619.43(b)(1), in the first line below the equation, "$v^{0:0}=1$" should read "$v^{0:0=1}$".

Appendix B to Part 2619 [Corrected]

2. On page 5141, in the third column, under the heading "Lump Sum Valuations", in the paragraph designated (2), in the second and third lines, the expression "$o < y \leq n_i$" should read "$0 < y \leq n_i$".

3. On the same page, under the heading "Annuity Valuations", in the first paragraph, in the fourth line "§ 2619.43(b)(i)", should read "§ 2619.43 (b) through (i) and in the third column, in the fourth line, "* * *" should read ". . .".

4. On page 5142, Table II should read as set forth below.

TABLE II (Sample Rates)

Annuity Valuations

For valuation dates occurring in the month --	The values of i_t are:					
	i_t for t =		i_t for t =		i_t for t =	
January 1995	.0850	1-20	.0575	>20	N/A	N/A
February 1995	.0825	1-15	.0600	16-25	.0550	>25

5. On page 5142, in the first column, under Part 2676, amendatory instruction 11. appearing immediately after the authority citation should be paragraphed.

Appendix B to Part 2676 [Corrected]

6. On page 5146, in the second column, under "Lump Sum Valuations", in the first paragraph, in the second line, the expression "$v^{o:n}$" should read "$v^{0:n}$".

7. On the same page, under the heading "Annuity Valuations", in the first paragraph, in the second line, the expression "$v^{o:n}$" should read "$v^{0:n}$".

8. On the same page, Table II should read as set forth below.

TABLE II (Sample Rates)

Annuity Valuations

For valuation dates occurring in the month --	The values of i_t are:					
	i_t for t =		i_t for t =		i_t for t =	
January 1995	.0850	1-20	.0575	>20	N/A	N/A
February 1995	.0825	1-15	.0600	16-25	.0550	>25

BILLING CODE 1505-01-D

federal register

Wednesday
February 10, 1993

Part II

Environmental Protection Agency

40 CFR Parts 144 and 191
Environmental Radiation Protection Standards; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

CFR Parts 144 and 191

[FRL-4560-8]

RIN 2060-AC30

Environmental Radiation Protection Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The U.S. Environmental Protection Agency is proposing certain environmental standards for the disposal of spent nuclear fuel, high-level and transuranic radioactive wastes (40 CFR 191.15 and subpart C). EPA is also proposing an additional provision to the Agency's Underground Injection Control Programs regulations in order to make clear that compliance with 40 CFR part 191, subparts B and C, will constitute compliance with regulations under the Federal Safe Drinking Water Act (SDWA) (40 CFR 144.31(a)).

EPA originally promulgated these standards in 1985 pursuant to the Agency's authorities and responsibilities under the Nuclear Waste Policy Act, as amended (42 U.S.C. 10101 *et seq.*), the Atomic Energy Act, as amended (42 U.S.C. 2021(h) and 2201), and section 2(a)(6) of Reorganization Plan No. 3 of 1970 (5 U.S.C. Appendix at 1343). In 1987, following a legal challenge, the U.S. Court of Appeals for the First Circuit (hereinafter referred to as "the First Circuit" or "the court") remanded subpart B of the 1985 standards to the Agency for further consideration. Recently enacted legislation known as the Waste Isolation Pilot Plant Land Withdrawal Act (WIPP LWA), however, reinstates the 1985 disposal standards except "the three aspects of §§ 191.15 and 191.16 of such [standards] that were the subject of the remand ordered in *Natural Resources Defense Council, Inc.* versus *United States Environmental Protection Agency,* 824 F.2d 1258 (1st Dir. 1987). The new law directs EPA to issue final disposal regulations by April 30, 1993, and specifies that such regulations shall not be applicable to the characterization, licensing, construction, operation or closure of any site required to be characterized under section 113(a) of Public Law 97-425, the Nuclear Waste Policy Act of 1982.

Today's proposal represents the Agency's response to this legislation and to the issues raised by the court pertaining to individual and groundwater protection requirements. In so doing, EPA is not revisiting any of the regulations reinstated by the WIPP LWA. After the Agency considers comments received on today's proposal, it will take final action in the form of amendments to part 191 of title 40 of the Code of Federal Regulations.

DATES: Public hearings on this proposed rule will be held in New Mexico and will be announced in a separate notice. Comments on the proposed rule should be received on or before March 22, 1993. As discussed below, the scope of today's proposal is strictly limited to proposed 40 CFR 191.15 and subpart C and does not extend to other portions of 40 CFR part 191. Accordingly, comments should be similarly limited in scope.

ADDRESSES: Comments should be submitted, in duplicate, to: Docket No. R-89-01, Air Docket, room M-1500 (LE-131), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Materials relevant to this rulemaking are contained in Docket No. R-89-01, located in room 1500 (first floor in Waterside Mall near the Washington Information Center), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC, 20460. The docket may be inspected between 8:30 a.m. and 12 noon and between 1:30 p.m. and 3:30 p.m. on weekdays. As provided in 40 CFR part 2, a reasonable fee may be charged for photocopying docket materials.

Single copies of the Draft Background Information Document and the Economic Impact Analysis for this action may be obtained by writing to: Waste Standards and Risk Assessment Branch, Criteria and Standards Division, Mail Code 6602J, Office of Radiation and Indoor Air, U.S. Environmental Protection Agency, Washington, DC, 20460 or calling (202) 233-9310.

FOR FURTHER INFORMATION CONTACT: Ray Clark or Caroline Petti; telephone number (202) 233-9310; address Criteria and Standards Division, Mail Code 6602J, Office of Radiation and Indoor Air, U.S. Environmental Protection Agency, Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

Radioactive wastes are the result of governmental and commercial uses of nuclear fuel and other radioactive material. Today's action addresses standards which pertain to the disposal of spent nuclear fuel, high-level, and transuranic radioactive wastes, referred to hereinafter as simply "waste" which is also defined in 40 CFR 191.12(b), unless specifically noted otherwise. (The Agency has issued, under these and separate authorities, standards to cover uranium mill tailings (40 CFR part 192 and 40 CFR part 61) and plans to issue standards to cover low-level radioactive wastes, to be codified at 40 CFR part 193.)

Fissioning of nuclear fuel in nuclear reactors creates what is known as "spent" or irradiated nuclear fuel. Sources of spent nuclear fuel include: (1) Fuel discharged from commercial nuclear power plants; (2) Fuel elements generated by government-sponsored R&D programs, universities and industry; (3) Fuels from experimental reactors (e.g., liquid metal fast breeder reactors and high-temperature gas-cooled reactors); (4) U.S. Government-controlled nuclear weapons production reactors; and (5) Naval reactor fuels and other U.S. Department of Defense reactor fuels. Most spent fuel is currently being stored in water pools at reactor sites where it is produced.

Spent nuclear fuel from defense reactors is routinely reprocessed to recover unfissioned uranium and plutonium for use in weapons programs. Most of the radioactivity goes into acidic liquid wastes that will later be converted into various types of solid materials. These highly radioactive liquid or solid wastes from reprocessing spent nuclear fuel have traditionally been called "high-level" wastes. If it is not to be reprocessed, the spent fuel itself becomes a waste. Only one commercial spent fuel reprocessing facility—the Nuclear Fuel Services Plant in West Valley, New York—ever operated in the United States and it was closed in 1972. No commercial spent fuel is being reprocessed in the United States at this time. High-level wastes derived from reprocessing activities are presently stored on Federal reservations in South Carolina, Idaho, and Washington and at the Nuclear Fuel Services Plant in New York.

Transuranic wastes, as defined in this rule, are materials containing elements having atomic numbers greater than 92 in concentrations greater than 100 nanocuries of alpha-emitting isotopes, with half-lives greater than twenty years, per gram of waste. Most transuranic wastes are items that have become contaminated as a result of activities associated with the production of nuclear weapons (e.g., rags, equipment, tools, and contaminated organic and inorganic sludges). These wastes are currently being stored on Federal reservations in Colorado, Idaho, Nevada, New Mexico, Ohio, South Carolina, Tennessee, and Washington.

History of Proposed Action

Under authority derived from the Atomic Energy Act of 1954, as amended (AEA) (42 U.S.C. 2021(h) and 2201(b) et seq.), and Reorganization Plan No. 3 of 1970 (5 U.S.C. Appendix at 1343), EPA is responsible for developing generally applicable environmental standards for protection of the general environment from radioactive material.

In December 1976, the Agency announced its intent to develop Federal guidance for the management and disposal of radioactive wastes. Among EPA's first activities in developing this guidance was a series of public workshops, conducted in 1977 and 1978, in order to gain a better understanding of public concerns and issues associated with radioactive waste disposal. EPA proposed "Criteria for Radioactive Wastes" in 1978 but withdrew the proposed criteria in 1981 because the many different types of radioactive wastes made the issuance of generic disposal guidance impractical.

Nevertheless, regulatory development efforts continued and on December 29, 1982, EPA published a proposed rule titled, "40 CFR part 191, Environmental Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes" (47 FR 58196). Shortly thereafter the Nuclear Waste Policy Act of 1982 was enacted which directed that EPA utilize its existing authority to promptly promulgate waste standards pursuant to the AEA. EPA responded and on September 19, 1985, EPA issued final "Environmental Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes" at 40 CFR part 191 (50 FR 38066).

In March 1986, a number of States and environmental groups filed petitions for review of the rule. The petitions for review were consolidated in the First Circuit.

The court issued its ruling on July 17, 1987. *NRDC* v. *EPA*, 824 F. 2nd 1258 (1st Cir. 1987). The court vacated and remanded:

(1) The Individual and Ground-Water Protection Requirements (§§ 191.15 and 16) for further consideration of their inter-relationship with part C of the SDWA and for further explanation of the 1,000-year time frame for the requirements;

(2) The Ground-Water Protection Requirements (§ 191.16) for insufficient notice and comment; and

(3) The rest of 40 CFR part 191 even though all but the two sections listed above were either unchallenged or upheld.

On rehearing, the government requested reinstatement of all sections except the two sections specifically identified as problematic by the court; i.e., §§ 191.15 and 191.16. In September 1987, the court reinstated the management and storage standards (subpart A) but left the entirety of the disposal standards (subpart B, which includes §§ 191.15 and 191.16) in remand. (*NRDC* v. *EPA*, Nos. 85–1915, 86–1096, 86–1097, 86–1098 (1st Cir.), order dated September 23, 1987.)

On October 30, 1992, the WIPP LWA was enacted, Public Law 102–579, S.1671, Conf. Rep. 102–1037. Besides setting the terms and conditions for the Department of Energy's (DOE) activities at the WIPP, the new law contains numerous provisions pertinent to EPA's role in overseeing DOE's activities at the WIPP, including implementation of the 40 CFR part 191 disposal standards. Specifically, the new law reinstates all of the disposal standards issued by the Agency in 1985 except the individual and ground-water protection requirements which were the basis of the above-described remand in *NRDC* v. *EPA*. WIPP LWA, section 8. Further, the WIPP LWA requires the Agency to issue final disposal standards within six months of its enactment, April 30, 1993. The new law also provides an extensive role for EPA in reviewing and approving various DOE activities at the WIPP including a requirement that EPA certify whether the performance of the WIPP repository will meet the final 40 CFR part 191 standards (once completed).

Accordingly, the next step in the evolution of 40 CFR part 191 is occurring today. As contemplated by the WIPP LWA, EPA is addressing the court remand of the 1985 version of 40 CFR 191.15 and 191.16 and proposing a new § 191.15 and a new subpart C. This proposal represents the Agency's response to the WIPP LWA and to the issues raised in the court remand.

One final point is important. Under the WIPP LWA and a separate statute also enacted in October 1992, the "Energy Policy Act of 1992" (Pub. L. 102–486), these reinstated and proposed standards (40 CFR part 191, subparts B and C) will not apply to any disposal site characterized under the section 113(a) of the Nuclear Waste Policy Act of 1982 (NWPA) (Pub.L. 97–425, 42 U.S.C. 10101 et seq.). Those sites, which at this time is only Yucca Mountain, Nevada, will be subject to separate EPA standards which are yet to be promulgated.

Objective and Implementation of Today's Proposed Action

Under authorities established by the AEA, Reorganization Plan No. 3 of 1970, and the WIPP LWA, the Agency is proposing certain generally applicable environmental standards for spent nuclear fuel, high-level and transuranic radioactive wastes. As noted above, the WIPP LWA reinstates the effectiveness of the provisions of 40 CFR part 191, as issued in 1985, not specifically found problematic by the First Circuit. Accordingly, the scope of today's proposed rulemaking is strictly limited to the provisions of the 1985 standards specifically found problematic by the court—the individual and ground-water protection requirements in §§ 191.15 and 191.16. Today's proposal does not address the balance of the 1985 standards, which remain unchanged. The Agency is proposing to replace §§ 191.15 and 191.16 of the 1985 standards with revised individual and groundwater protection requirements, as described below.

When the revisions in today's proposal are finalized and promulgated as amendments to 40 CFR part 191, the Nuclear Regulatory Commission (NRC) and the DOE will be responsible for implementing and enforcing these standards through appropriate regulations or procedures. EPA, under the authority of the WIPP LWA, will be responsible for certifying compliance at the WIPP and will be promulgating criteria for this certification of compliance under a separate rulemaking.

Today's proposed rule applies to disposal of spent nuclear fuel, high-level and transuranic radioactive wastes. In accordance with the WIPP LWA, the proposed rule does not apply to the characterization, licensing, construction, operation, or closure of any site required to be characterized under section 113(a) of the NWPA. The NWPA established a process for selecting and developing potential repositories for disposal of spent nuclear fuel and high-level radioactive waste.

Although developed primarily through consideration of mined geologic repositories, today's proposed rule applies to disposal of waste by any method, with one exception. The standards do not apply to ocean disposal or disposal in ocean sediments. Disposal of high-level waste in this manner is prohibited by the Marine Protection, Research and Sanctuaries Act of 1972, as amended (33 U.S.C.A. 1401 to 1445). If the law is ever changed to allow such disposal, the Agency

would need to develop appropriate regulations.

Also today's proposed disposal standards do not apply to waste disposal which occurred before the effective date of the 1985 standards. The provisions of the disposal standards are intended to be met through a combination of steps involving site selection, disposal system design, and operational techniques, e.g., engineered barriers. Therefore, it is appropriate that these disposal standards apply to only disposal occurring since the standards were originally promulgated in 1985 so that they can be taken into consideration in devising the proper selection of controls.

As a related action, the Agency is also proposing an addition to the SDWA underground injection control (UIC) program provisions found in 40 CFR 144.31(a). This revision is intended to define the relationship between part 191 and the UIC program by establishing that compliance with subpart C of 40 CFR part 191 constitutes compliance with the SDWA requirements, and the UIC program requirements, not to endanger underground sources of drinking water consistent with this part to the extent that such a requirement may apply to a given waste disposal system.

It is important to emphasize that today's proposal does not address subpart A or the portions of 40 CFR part 191 which were reinstated by the WIPP LWA; it is strictly limited to the above-described individual and ground-water protection requirements (40 CFR 191.15 and subpart C) and associated definitions. Thus, EPA will not respond to comments on subpart A or the reinstated portions of 40 CFR part 191.

Description of the Proposed Actions

The Agency's proposed actions are described in this section.

Definitions

The Agency is proposing to add several terms, delete several terms, and make changes to several others including:

(1) The addition of a new term, "radioactive material," which means materials with half-lives greater than twenty years and that are subject to the Atomic Energy Act. There may arise circumstances where radioactive materials not presently classified as spent nuclear fuel, high-level, or transuranic wastes are managed or disposed of with these wastes. For instance, NRC recently issued a final rule requiring disposal of "greater-than-Class C" low-level radioactive wastes in a deep geologic repository unless disposal elsewhere has been approved by the Commission (See 54 FR 22578 codified at 10 CFR part 61). "Greater-than-Class C" wastes are wastes which exceed certain radionuclide concentrations specified by the NRC (10 CFR part 61). The Agency's proposed definition of radioactive material is intended to ensure that contributions to the radiation dose received by individual members of the public and impacts on ground water from "greater-than-Class C" or any other radioactive materials managed or disposed with spent nuclear fuel, high-level and/or transuranic radioactive wastes are covered by the rules proposed today.

(2) Changes to the definition of the term "implementing agency" to reflect EPA's role under the recently enacted and above-described WIPP LWA.

(3) The addition of several new terms which pertain to the radiation dosimetry used throughout today's proposed individual and ground-water protection requirements;

(4) The addition of several new terms pertaining to the ground-water protection requirements in subpart C of today's proposed rule; and

(5) The deletion of several terms from the 1985 individual and ground-water protection requirements which are no longer pertinent.

Individual Protection Requirements (Section 191.15)

The Agency is proposing to replace the Individual Protection Requirements found at § 191.15 in the 1985 standards with a new set of requirements. A brief history of the development of these requirements follows.

The proposed 40 CFR part 191 standards, issued in 1982 and which preceded the 1985 standards, did not contain any numerical restrictions on individual doses after disposal. Rather, they relied on the qualitative assurance requirements to reduce the likelihood of such exposures. For instance, the assurance requirement calling for extensive permanent markers and records was intended to transmit information to future generations about the dangers of intruding into the vicinity of a repository. Also, another assurance requirement which called for careful evaluation of sites with significant resources was intended to reduce the likelihood of human intrusion even if the information transmitted about the existence of a disposal system was ignored or misunderstood. Another assurance requirement called for employment of multiple barriers, both engineered and natural, and was intended to reduce the risks if one type of barrier performs more poorly than current knowledge indicates.

This approach to limiting potential individual exposures was highlighted for comment when the standards were proposed in 1982. Comments received persuaded the Agency that quantitative regulatory limits for protection of individuals were also necessary. The Agency was persuaded that reliance on containment requirements, even if supplemented with assurance requirements, could, nevertheless, still result in an unacceptably high risk to individuals in the vicinity of disposal systems. Thus, the Agency decided the best approach would be to supplement (rather than replace) the proposed protection for populations with additional protection for individuals.

Having made the decision to include individual protection requirements, the Agency then had to determine (1) the length of time over which the requirements should apply, and (2) the appropriate dose level for the requirements.

Time Frame of the Individual Protection Requirements

The final disposal regulations promulgated in 1985 included individual protection requirements which limited annual radiation doses to individuals for 1,000 years after disposal. In selecting the 1,000-year time period for the 1985 requirements, the Agency examined the effects of choosing different time periods. Just as 10,000 years was chosen for the containment requirements because EPA believed it was long enough to encourage use of disposal sites with natural characteristics that enhance long-term isolation, 1,000 years was chosen for the individual protection provisions because the Agency's assessments indicated it is long enough to ensure that good engineered barriers would be used at disposal sites where some ground water would be expected to flow through a mined geologic repository. Time frames shorter than 1,000 years would not require appropriate engineered barriers even at disposal sites with large ground-water flows.

At the same time, demonstrating compliance with individual exposure limits over time frames longer than 1,000 years appeared to be difficult because of the analytical uncertainties involved. Furthermore, there was a concern that at some disposal sites the only certain way to comply might involve very expensive engineered barriers. Based on these considerations, the Agency decided, in the 1985 rule, that a 1,000-year period was adequate

for the quantitative limits on individual doses after disposal.

As explained above, in 1986, the Natural Resources Defense Council (NRDC) and others challenged EPA's decision to limit the period of the individual protection requirements to 1,000 years as arbitrary and capricious. Petitioners argued that the Agency erred in:

(1) Setting a 1,000-year period which ensures that the numerical standards expire at the precise moment in time when significant releases to the accessible environment are expected to begin to occur, i.e., as engineered barriers begin to degrade;

(2) Inappropriately considering population risk in setting the time limit for standards designed to protect individuals; and

(3) Considering the likelihood of delay in the construction of a disposal system and in concluding, without record support, that a duration longer than 1,000 years would lead to prohibitive costs and difficulties in demonstrating compliance with the standards.

In 1987, the court held that the Agency's choice of a 1,000-year period was arbitrary and capricious, finding little record evidence that the Agency considered individual risk in addition to population risk in selecting that time frame (a consideration EPA itself had determined must be considered). Thus, the court remanded that portion of the regulations to the Agency for reconsideration or, "at the very least," a more thorough explanation of the reasons underlying the choice of 1,000 years. After re-evaluating the implications of various time frames, the Agency is now proposing to adopt a 10,000-year time frame for the individual protection requirements.

The Agency is proposing 10,000 years as the regulatory period for the individual protection requirements for four primary reasons:

(i) Wastes emplaced into disposal systems will remain radioactive for many thousands of years. Therefore, the Agency believes significant public health and environmental benefits can be gained by selecting a longer time frame for the requirements because a longer time frame can encourage the selection of good disposal sites and the design of robust engineered barriers. The Agency examined potential doses to individuals, for various times in the future, from waste disposal systems. In most of the cases studied, radionuclide releases resulting in exposures to individuals did not occur until more than 1,000 years after disposal due to the containment capabilities of the engineered barrier systems. Beyond 1,000 years, but prior to 10,000 years, as the engineered barriers begin to degrade, releases resulting in doses on the order of a few rems per year appeared for some of the geologic media studied. (The risk, or chance, of causing a premature fatal cancer associated with exposure to one rem/year of low-LET radiation is approximately four in ten thousand per year (4×10^{-4}/year) or three in one hundred over a 70-year lifetime (3×10^{-2}/lifetime). Hereinafter, as used in this document, the term "risk" refers to the chance of developing a premature fatal cancer.) For other, better, geologic media, the Agency's generic analyses estimate no releases for 10,000 years. The Agency believes selecting a 10,000-year time for the requirements will encourage the selection of good sites and the design of robust engineered barrier systems capable of significantly impeding radionuclide releases. These actions, in turn, will serve to reduce the individual risks associated with the disposal of radioactive waste.

(ii) The Agency believes improvements in modeling capability since 1985 have facilitated demonstrating compliance with individual dose limits over time frames longer than 1,000 years. Out of necessity, analyses performed prior to 1985 relied on data derived primarily from generic geological data available in the open literature. Since that time, additional data have been collected, during characterization of potential disposal sites, which provide an improved basis on which to assign values to the various parameters in analyses performed now.

As indicated in the documentation supporting the promulgation of 40 CFR part 191 in 1985 (EPA 520/1–85–023), the NWFT/DVM computer code was used to estimate risks to individuals from disposal systems. This computer code has undergone considerable improvement since 1985. It has evolved into the NEFTRAN–S computer code and is used to perform EPA's updated analyses of individual risk which are found in the draft Background Information Document (BID) supporting today's rulemaking which may be found in the docket supporting this rulemaking. In particular, NEFTRAN–S incorporates improved capabilities for modeling the transport of radionuclides through a geologic medium, including use of the distributed velocity method for modeling dispersive or diffusive transport through porous media. NEFTRAN–S also incorporates added capability to perform statistical analyses required in sensitivity and uncertainty analyses. (See Sandia Report SAND90–1987, UC–502.) Both NRC and DOE also use the improved NEFTRAN methodology.

(iii) In contrast to earlier estimates, EPA now believes that the financial cost of providing additional protection for individuals and ground water by imposing a 10,000-year regulatory time frame will be reasonable. EPA's analyses of the performance of well-sited and well-designed disposal systems indicate that there will be zero releases for either a 1,000- or 10,000-year time frame. In fact, EPA's analyses show that, under conditions of normal ground-water flow, time frames much longer than 10,000 years are achievable for geologic repositories in some settings. (See Chapter 7 of the draft BID.) As such, there should be no additional compliance costs associated with a 10,000-year time frame at well-selected disposal sites. There may, however, be costs associated with the procedures used to demonstrate compliance although EPA believes that for well-selected and well-designed systems these costs will also be minimal.

If compliance assessment indicates that a disposal system fails to meet the 10,000-year individual dose standard, more robust engineered barriers to contain releases of radionuclides may be required. EPA acknowledges that the costs of more robust engineered barriers could be high (one preliminary estimate by DOE is $3.2 billion for 10,000-year containers for commercial spent fuel and high-level waste) but notes that these costs only ensue if a poor site is selected to host the disposal system. EPA's standards are designed, in part, to encourage the selection of good sites for disposal systems.

It is possible that extending the time frame for individual dose calculations could increase the costs by making additional modeling necessary. While it is difficult for EPA to estimate the costs of additional modeling, EPA believes the costs will be insignificant when compared to the multibillion dollar costs to develop disposal facilities. Furthermore, many of these costs will have to be incurred, in any case, under the provisions reinstated by the WIPP LWA. In particular, under the containment requirements now in effect under 40 CFR part 191, compliance must be demonstrated over a period of 10,000 years. That demonstration requires an analysis of the movement of radionuclides out of the repository and into the environment. Because this analysis is at the heart of the proposed 10,000-year individual protection requirements, it can also be used for assessing compliance therewith.

Finally, EPA notes that disposal sites have differing costs of development, i.e., mining and construction, associated with them. Coincidentally, the geologic media which are least expensive to develop—salt and unsaturated tuff—are also the media which appear most capable of limiting releases of radionuclides, beyond 10,000 years, in a manner that keeps expected doses to individuals low. On the other hand, other media, e.g., basalt, which, EPA's analyses show, will not contain radionuclides for 10,000 years, cost more to develop than either salt or unsaturated tuff. (See the Economic Impact Analysis accompanying this proposal.) These costs could dwarf any increase in cost that may be associated with selecting a 10,000-year, rather than a 1,000-year, time frame. This reinforces EPA's view that extending the time frame for the individual and ground-water protection requirements will not add significantly to the costs of disposal system development.

(iv) Incorporating a 10,000-year time frame in these requirements is consistent with the time frame adopted for the containment requirements in § 191.13 and with 10,000-year modeling guidance and requirements in other EPA regulatory programs such as "no-migration" determinations for the underground injection of untreated hazardous waste (40 CFR 148.20) and "no-migration" determinations issued under the Resource Conservation and Recovery Act (42 U.S.C. 6905, 6912(a), 6921, and 6924) at 40 CFR 268.6.

For the reasons stated above, EPA believes that the individual protection requirements should apply for 10,000 years. (These reasons also support EPA's decision to apply the ground-water protection requirements in subpart C of today's proposal for 10,000 years.) EPA also believes that, to be responsive to the issues raised by the court remand of 40 CFR part 191, it must choose 10,000 years as the standard. When the court ruled on the subject of the time frame associated with the 1985 individual and ground-water protection requirements, it made note of the fact that EPA used a 10,000-year standard for the containment requirements in the rule. The court stated that if EPA was going to be less protective for individuals than for populations it would have to explain why factors peculiar to the protection of individuals, calculated over time, justify a different time period than for protection of the overall population. EPA has concluded that there is no significant difference between these calculations in terms of the time frame involved and, hence, there is no convincing reason why the two types of standards should be different. Accordingly, EPA believes it is necessary to make the time periods for the containment, individual and ground-water protection requirements the same.

Dose Limits in the Individual Protection Requirements

The individual protection requirements in § 191.15 of the 1985 standards limited annual doses to members of the public in the accessible environment to 25 millirems to the whole body or 75 millirems to any organ from all pathways of exposure. Today, the Agency is proposing to replace § 191.15 of the 1985 standards with individual protection requirements which adopt a different methodology for calculating doses to individuals.

In the 1985 standards, EPA's dose standards were specified in terms of limits on specific organ doses and the "whole body dose." This methodology is no longer in keeping with current practices of radiation protection; a different methodology for calculating dose has come into widespread use, the committed effective dose (CED). In 1987, EPA, in recommending to the President new standards for all workers exposed to radiation, accepted this methodology for the regulation of doses from radiation. (52 FR 2822) The methodology was originally developed by the International Commission on Radiological Protection (ICRP) and is now used by EPA and other Federal agencies.

The CED is the risk-weighted sum of the doses to the individual organs of the body. The dose to each organ is weighted according to (i.e., multiplied by) the risk to that organ as a result of that dose. These weighted organ doses are then added together and that total is the CED. In this manner, the risk of radiation exposure to various parts of the body can be regulated through use of a single numerical standard.

The weighting factors for the individual organs and procedures for calculating annual CEDs are specified in Appendix B of today's proposal. A discussion of the basis for the EPA factors is included in the BID prepared in support of this proposal.

The CED is simple to implement, is more closely related to risk than the system of limiting doses to the whole body and to specific organs, and is recommended by the leading national and international advisory bodies. By changing to this new methodology, EPA will be conforming this rule to the internationally accepted method for calculating dose and estimating risk.

As noted above, Section 8 of the WIPP LWA reinstates those aspects of the 1985 version of 40 CFR part 191, Subpart B, not specifically found problematic by the First Circuit in *NRDC* v. *EPA*. The First Circuit had only one concern pertaining to the existing individual protection requirements: EPA failed to adequately explain its decision to limit the duration of the individual protection requirements to 1,000 years given the arguments of petitioners and the 10,000-year period in the containment requirements. The court neither addressed nor commented upon the numerical standard itself, which the 1985 standards set at 25 millirems per year to the whole body and 75 millirems per year to any critical organ. See 40 CFR 191.15. Thus, the WIPP LWA arguably represents an endorsement by Congress of the policy decisions that underlie these numerical standards, including the risk levels they represent. As discussed below, EPA is today proposing to reformulate those numerical limits to reflect current practices in measuring and assessing radiation exposure. EPA is proposing an annual 15-millirems effective dose requirement which reflects an equivalent level of risk identified by the Agency in selecting the 1985 limits. In so doing, EPA sees no reason to alter its basic 1985 decision regarding risk to individuals and the appropriate level of protection. Rather, as discussed further below, EPA is only reconsidering the durational component.

The Agency is proposing to limit the annual committed effective dose from the intake of all radionuclides, plus the effective dose from any external exposure, to 15 millirems. EPA chose a 15-millirem dose limit because it is most consistent with the level of risk associated with the individual protection requirements of the 1985 standards (about 5×10^{-4}) and because, as in 1985, it believes that this level is sufficiently protective for situations where no more than a few individuals are likely to receive the maximum dose.

In addition, the Agency believes it is reasonable to adopt a standard that allows a slightly higher level of risk when the dose is being received through all exposure pathways, e.g., direct exposure, food ingestion, water ingestion, and inhalation, and all environmental media, e.g., air and water, than when regulating doses received through a single environmental medium, e.g., a 10-millirem committed-effective-dose per year standard for air emissions (40 CFR part 61).

The individual protection requirements in today's proposal apply to the undisturbed performance of the

disposal system, including consideration of the uncertainties in that performance. Undisturbed performance means that the disposal system is not disturbed by human intrusion or the occurrence of unlikely disruptive natural events. This assumption is made because, if human intrusion occurs, the individuals intruding may be exposed to high radiation doses which regulations cannot prevent.

In assessing the performance of a disposal system with regard to individual exposures, all pathways and routes through which radioactive material or radiation can travel from the disposal system to people must be considered. Ground water use within the controlled area need not be assumed, however, because geologic media within the controlled area are an integral part of the disposal system's capability to provide long-term isolation. The potential loss of ground-water resources is very small because of the small number of such disposal facilities contemplated.

Standards for Ground-Water Protection (Subpart C)

EPA is also proposing separate regulatory provisions designed to further protect public health by protecting ground-water resources. In general, EPA is proposing that disposal systems be designed so that levels of contamination in off-site underground sources of drinking water will not, for 10,000 years, exceed the applicable maximum contaminant level (MCL) established in 40 CFR part 141 under the SDWA, 42 U.S.C. 300g-1. These provisions are proposed for inclusion as a new subpart C in 40 CFR part 191 and will apply only to disposal (not management and storage). The disposal-related aspects of 40 CFR part 191 are to be implemented in the design phase of a disposal system. For long periods of time, such as 10,000 years, the Agency believes that active surveillance cannot be relied upon for prevention or remediation of releases or to enforce levels of radiation in the environment. Discussed below are the statutory and regulatory backgrounds, interpretive caselaw in the First Circuit, and the legal rationale for these proposed provisions. Further detail and explanation as to the particulars of the proposal follows, including a discussion of the technical and policy rationale underlying inclusion of subpart C. The reader is also referred to the draft BID which discusses the analyses underlying subpart C in greater detail.

Statutory and Regulatory Background

The WIPP Land Withdrawal and the Nuclear Waste Policy Acts

As noted above, today's proposal responds to the directive in section 8 of the WIPP LWA that EPA conduct a rulemaking to issue certain radioactive waste disposal regulations at 40 CFR part 191, subpart B. Under section 8(b)(1) of the WIPP LWA, EPA is to issue the required regulations within six months of enactment pursuant to rulemaking under 5 U.S.C. 553, i.e., informal rulemaking under the Administrative Procedures Act. EPA initially promulgated subpart B in 1985 (50 FR 38,084 (Sept. 19, 1985)), but those regulations were subsequently vacated in whole as part of a remand order issued by the First Circuit in 1987 (discussed further above and below). See *NRDC, Inc.* v. *EPA*, 824 F.2d 1258 (1st Cir. 1987).

Section 8(a)(1) of the WIPP LWA reinstates those portions of subpart B except §§ 191.15 and 191.16 which were remanded by the First Circuit. Accordingly, section 8(a)(2)(A) of the WIPP LWA exempts the requirements at 40 CFR 191.15 (individual protection) and 191.16 (ground-water protection) from the statutory reinstatement. Section 8(b)(2) addresses these non-reinstated provisions by directing that EPA promulgate final regulations within six months. This proposal responds to that directive by proposing revised individual protection requirements in 40 CFR 191.15, discussed above, and by proposing new ground-water protection requirements as 40 CFR part 191, subpart C (discussed below).

The WIPP LWA also limits the applicability of the reinstated standards and the revisions being made today so that they will not apply to sites characterized under section 113(a) of the NWPA. The only section 113(a) site currently under consideration is Yucca Mountain, Nevada. The radioactive waste disposal standards that will apply there are to be developed by EPA pursuant to specific provisions in the Energy Policy Act of 1992, Public Law 102–486, which, among other things, requires EPA to formally consult with the National Academy of Sciences before proposing standards.

Notwithstanding this severing of EPA's subpart B regulations from NWPA section 113(a) and, therefore, Yucca Mountain, the genesis of EPA's 1985 subpart B standards and, thus, today's proposal, resides in significant part in the NWPA.

As noted above, the NWPA was enacted in 1982, amended in 1987, and is amended again by the Energy Policy Act of 1992. In general, the NWPA directs DOE and NRC to endeavor to establish repositories for spent nuclear fuel and HLW and directs EPA to "promulgate generally applicable standards for protection of the general environment from offsite releases from radioactive material in [such] repositories." 42 U.S.C. 10141(a). The NWPA does not independently authorize these rules, but instructs EPA to act pursuant to its "authority under other provisions of law." Id.

The Atomic Energy Act and Reorganization Plan No. 3

EPA's regulatory authority is provided by the AEA and Reorganization Plan No. 3 of 1970. The AEA authorized the Atomic Energy Commission (the predecessor of the NRC to "establish by rule, regulation, or order, such standards * * * to govern the possession and use of special nuclear material, source material, and byproduct material as the Commission may deem necessary or desirable * * * to protect public health or to minimize danger to life or property." When EPA was created in 1970 by Reorganization Plan No. 3, President Nixon transferred to EPA's jurisdiction:

"[t]he functions of the Atomic Energy Commission under the Atomic Energy Act of 1954, as amended, * * * to the extent that such functions of the Commission consist of establishing generally applicable environmental standards for the protection of the general environment from radioactive material. As used herein, standards mean limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material." Reorganization Plan No. 3 at section 2(a)(6).

Thus, EPA is authorized to promulgate the generally applicable environmental standards called for by the NWPA [through reference to the AEA, including section 2201(b)].

Under the NWPA and the WIPP LWA, the contemplated disposal systems are to be built and operated by DOE. NRC has a licensing role under the NWPA, which, as discussed above, currently is focused exclusively upon Yucca Mountain. Under the AEA, Reorganization Plan No. 3, and the NWPA, EPA's rulemaking role is limited to the promulgation of generally applicable environmental standards. Today's proposal is designed to complete the radioactive waste disposal standards that will apply to DOE's WIPP and any other non-NWPA disposal systems that may be selected in the future. Under the WIPP LWA, EPA must

also promulgate regulations setting forth criteria for certifying DOE's compliance with these regulations. See WIPP LWA sections 8(c), 8(d) and 9. These criteria are being developed by EPA through a separate rulemaking.

The Safe Drinking Water Act

As noted previously, in today's action EPA is proposing that disposal systems be designed so that contamination in off-site underground sources of drinking water will not exceed the applicable maximum contaminant level for radionuclides (MCL) under the SDWA. The SDWA was enacted to assure safe drinking water supplies and to protect against endangerment of underground sources of drinking water. SDWA section 1421 and 42 U.S.C. 300 (h) and (b)(1). "Endangerment" occurs if an underground injection "may result in the presence of underground water which supplies or can reasonably be expected to supply any public water system of any contaminant, and if the presence of such contaminant may result in such system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons." 42 U.S.C. 300h(d)(2).

Pursuant to section 1412 of the SDWA, EPA has promulgated National Primary Drinking Water Regulations (NPDWRs) for contaminants in drinking water which may cause an adverse effect on the health of persons and which are known or anticipated to occur in public water systems. Pursuant to SDWA section 1401, these regulations include MCLs and "criteria and procedures to assure a supply of drinking water which dependably complies" with such MCLs. MCLs are the enforceable standards under the SDWA and represent the level of water quality that EPA believes is acceptable for consumption from public drinking water supplies. EPA is today proposing to adopt the MCLs for radionuclides as contained in 40 CFR part 141.

Subpart B as Promulgated in 1985

As noted above, today's proposal modifies the rulemaking that resulted in the 1985 version of 40 CFR part 191, subpart B (a large portion of which is reinstated by the WIPP LWA). The authority for this proposal and the 1985 standards exists in the AEA and Reorganization Plan No. 3, as EPA had commenced developing those rules even before the NWPA was enacted in 1982. See 50 FR 38,066, 38,067 (Sept. 19, 1985) (Preamble to 1985 standards). However, the NWPA certainly informed and played a vital role in EPA's 1985 rulemaking and, thus, deserves reference here.

From the outset, EPA determined that its part 191 standards would apply to spent nuclear fuel, high-level and transuranic radioactive waste. Spent nuclear fuel is mainly produced by commercial nuclear power plants which are licensed by the NRC. Id. at 38,066. HLW is mostly produced as a result of reprocessing of spent nuclear fuel from the nuclear weapons program. Transuranic waste, on the other hand, consists of equipment, clothing and other items contaminated by radionuclides heavier than uranium and is also generated primarily within the nuclear weapons program. The nuclear weapons program is under the direction of the DOE. Id. at 38,066–077. As EPA developed its rules prior to passage of the NWPA, the Agency was aware that DOE was developing plans for disposing its transuranic waste at the WIPP. After enactment of the NWPA, which is directed at NRC-regulated wastes, EPA continued to develop rules that would also apply to the DOE's transuranic waste including that targeted for disposal at the WIPP. (Even though NWPA facilities are now excluded from today's rules, the scope of subpart B, as reinstated and proposed today, continues to include the full range of waste.)

EPA concluded its rulemaking effort, in part in response to the directive in the NWPA and related litigation, by promulgating final standards on September 19, 1985. See 50 FR 38,084. Subpart A of those rules established standards for the management and storage of radioactive wastes, and subpart B, limited portions of which are modified by today's proposal, established standards governing disposal.

As promulgated in 1985, subpart B consisted of four categories of requirements: containment (40 CFR 191.13), assurance (40 CFR 191.14); individual protection (40 CFR 191.15), and ground-water protection (40 CFR 191.16). The containment requirements called for disposal systems to "be designed to provide a reasonable expectation" that releases of radionuclides be controlled to specified levels for 10,000 years. The assurance requirements supported the containment requirements by calling for a period of active maintenance and monitoring, permanent markers, record-keeping, redundant barriers against the movement of water and radionuclides toward the environment, and other measures. The individual protection requirements limited individual doses for 1,000 years, and the ground-water protection requirements also called for 1,000 years of protection but for only a small category of ground water ("special sources").

The WIPP LWA reinstates the containment and assurance requirements of subpart B. Thus, those provisions are not being re-opened or revisited by today's proposal, the scope of which is strictly limited to the individual and ground-water protection requirements.

The First Circuit Opinion

Several petitions to review the 1985 standards were filed by environmental groups and states; the cases were consolidated in the First Circuit. For reasons peculiar to the individual and ground-water protection provisions of subpart B (40 CFR 191.15 and 191.16), the court granted the petitions on July 17, 1987, initially remanding all of part 191 to EPA for further consideration. See generally *NRDC, Inc.* v. *EPA*, 824 F.2d 1258 (1st Cir. 1987). As discussed above, the WIPP LWA reinstates all of Subpart B except those provisions for which EPA is to address the court's ruling through today's rulemaking. EPA's proposed response regarding individual protection is set forth above, while ground water is addressed below, beginning with a brief description of the court's ruling in this regard.

In granting the petition, the court emphasized the parallel environmental goals that exist in the SDWA, the NWPA, and the AEA and found that EPA had not adequately explained why the part 191 standards were less stringent than those under the SDWA. The court reasoned that because the contemplated repositories will "likely" constitute underground injection under the SDWA, and because the SDWA calls for assurances that underground injection not "endanger" underground sources of drinking water, i.e., ground water, EPA's standards were arbitrary and capricious because EPA did not adequately explain its choice of a level of protection less stringent than the SDWA for ground water outside the controlled area of the repository. The court stated:

> [T]he SDWA is no mere incidental provision. It reflects a national policy and standard relative to the country's water supplies. Safeguarding such resources and their users is likewise implicit in the EPA's duty under the NWPA to promulgate HLW standards for the protection of the general environment from offsite releases from radioactive material in repositories.' 42 U.S.C. 10141(a). Id. at 1280.

Thus, the rules were remanded to EPA for further consideration and explanation: To be rational, the HLW regulations either should have been consistent with the SDWA

standards—or else should have explained that a different standard was adopted and justify such adoption. As matters now stand, the DOE may be encouraged to expend large sums on site selection, design and construction only to discover itself embroiled in a dispute as to whether the EPA's HLW standards excuse it from securing a state underground injection permit *based on the EPA's different, more [or, in some circumstances, less] stringent standards* [emphasis added]. These are matters the EPA, relying on its expertise, should face and clarify in the HLW regulations; otherwise the HLW regulations will be on a collision course with the SDWA regulations. Id. at 1281.

Legal Rationale for Today's Proposal

In the manner and for the reasons discussed further below, today, EPA is proposing to conform the part 191 ground-water protection requirements, through a new subpart C, to the SDWA for underground sources of drinking water outside the controlled area of a disposal system subject to part 191. Under this proposal, compliance with the new subpart C will provide an equivalent level of protection as would compliance with the SDWA regulations. Thus, as also provided in today's proposal to revise regulations under the SDWA, compliance with subpart C will constitute compliance with the SDWA to the extent—if at all—such compliance would otherwise be required for a particular disposal system.

In support, EPA notes that it does not believe there are persuasive scientific or policy reasons for going forward with a level of protection for these sites less stringent than would apply under the SDWA. However, in issuing today's proposal, EPA emphasizes that it is not revisiting the issue, litigated before the First Circuit, of whether disposal at a covered repository, either at the WIPP or elsewhere, constitutes underground injection under the SDWA. By conforming the two sets of standards, EPA does not believe that it is necessary to reach or resolve the question of whether disposal constitutes underground injection. EPA notes that the First Circuit itself did not resolve that issue, stating only in dicta that disposal in geologic repositories would "likely" constitute underground injection. What the court held was that, in any event, EPA could not rely on a narrow legal conclusion that disposal of radioactive waste was not covered under the SDWA, even if that conclusion were correct. Instead, because the part 191 and the SDWA programs called for essentially similar protective standards, EPA's duty was to either conform the substantive regulatory requirements of the two programs or explain any inconsistency. Today's proposal fully satisfies the First Circuit remand by proposing disposal standards that are consistent with the SDWA standards.

The Nature of the Proposal

As proposed, subpart C will require that a prospective disposal system demonstrate that it will comply for 10,000 years with the primary SDWA regulations for radionuclides—the MCLs, currently codified at 40 CFR 141.15 and 141.16, in effect at the time the implementing agency determines compliance with subpart C. Subpart C provides an additional measure of public health protection by limiting the sites or methods for disposal so that no degradation of off-site underground sources of drinking water in excess of the MCLs will occur. Implementation of subpart C will occur before any waste is actually disposed and, thus, these resources will not be "endangered" within the meaning of the SDWA.

These requirements will apply whether or not any particular disposal system constitutes underground injection. Thus, it is not necessary in this rulemaking to analyze the composition or method of disposal for any particular disposal system, such as the WIPP, to determine whether it is the sort of activity covered by the underground injection provisions in the SDWA.

Authority for Proposal

As authority for this proposal, EPA relies upon the AEA, Reorganization Plan No. 3, the WIPP LWA, and the SDWA. Although, as described above, EPA's specific authority for part 191 derives from the AEA and Reorganization Plan No. 3, that authority is also informed by the NWPA which provided the impetus for the 1985 standards, portions of which were reinstated by the WIPP LWA. The SDWA provides additional reason for EPA's proposal as it reflects Congressional policies and purposes, regardless of whether they apply as a matter of law, that are consistent with those in the authorities for part 191. In other words, in exercising its rulemaking authority under the AEA and the WIPP LWA (as further informed by the NWPA), EPA is reconciling that action with Congressional purposes in the SDWA.

As noted above, at its inception, EPA's jurisdiction was defined to include the "establishment of generally applicable environmental standards for the protection of the general environment from radioactive material." Reorganization Plan No. 3 at section 2(a)(6). These standards are directed to radiation levels, concentrations, and exposures "in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material." Id. The express statutory authority for taking this action is provided by AEA. Included therein is the authority to establish by rule such standards as the Commission [now EPA] may deem necessary or desirable to protect public health or to minimize danger to life or property. [42 U.S.C. 2201(b)]. And the NWPA, which played an integral role in the development of part 191, directed that EPA promulgate standards for protection of the general environment from offsite releases from radioactive material in repositories. [42 U.S.C. 10141(a)]. In so doing, EPA is to act pursuant to its "authority under other provisions of law." *Id.* (e.g., the AEA). In other words, EPA is to promulgate those standards it deems necessary or desirable to protect the general environment, including public health, life, and property, from dangers presented by radioactive material at locations outside the boundaries of the sites where such materials were originally located.

Whether or not the SDWA applies as a matter of law for a particular repository, the Congressional purposes it advances are consistent with those underlying national radioactive waste disposal programs. Under the SDWA, EPA is to publish regulations (that the states will then, ordinarily, implement) to prevent underground injection which endangers drinking water sources. [42 U.S.C. 300h(b)(1)]. Endangerment is broadly defined to occur whenever such injection may result in the presence in underground water [i.e., groundwater] which supplies or can reasonably be expected to supply any public water system of any contaminant, and if the presence of such contaminant may result in such system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons. [42 U.S.C. 300h(d)(2)]. In pertinent part, the national primary drinking water regulations include MCLs, 42 U.S.C. 300g–1, which are defined as the maximum permissible level of a contaminant in water which is delivered to any user of a public water system.

The purposes advanced by this statutory scheme—protection of the nation's drinking water resources so as not to adversely affect public health—is in substantial accord with the purposes underlying EPA's authority for radioactive waste disposal regulations. See *NRDC*, 824 F.2d at 1280 ("[The

SDWA] reflects a national policy and standard relative to the country's water supplies. Safeguarding such resources and their uses is likewise implicit in the EPA's duty under the NWPA to promulgate standards."). Thus, the proposed rules at subpart C respond well to the entire range of statutory mandates. They are directed to ground water in the general environment, outside the "controlled" area of the repository, and are intended to protect a valuable resource in the environment, and, in that way, protect public health, life, and property from radioactive materials. They do this by conditioning disposal in a particular repository upon a determination that such use will not "endanger" groundwater for 10,000 years, as measured by the MCL then in effect.

Compliance With Proposed Subpart C Constitutes Compliance With the SDWA

Given the confluence of purpose between the authorities for regulating HLW disposal and the SDWA, as well as EPA's assessment that there is no scientific or policy reason not to require conformance, subpart C is designed to provide an equivalent level of protection as would occur if the SDWA regulations applied directly to a particular disposal system. The underlying substantive requirement in the SDWA is that ground water not be endangered through degradation above the levels of the applicable MCLs. This is accomplished by the proposed requirement in subpart C that before disposal may occur, a determination must be made that ground water will not be degraded to radionuclide levels above the MCLs for 10,000 years. For this reason, EPA is today proposing an amendment to its SDWA regulations for the UIC program (40 CFR 144.31(a)) stating that compliance with the part 191 standards, including subpart C, will constitute compliance with the SDWA, to the extent that that statute would otherwise apply at a particular disposal system.

In issuing today's proposals, EPA acknowledges that not only is the substantive protection in subpart C equivalent, but also that the significant procedural components of the SDWA are likewise assured. EPA has reviewed the procedures available under the SDWA and compared them to the extraordinarily elaborate process that exists for the only disposal systems currently being considered for use, such as, the WIPP. This review reveals extensive procedural requirements for these disposal sites, including the preparation of detailed engineering plans and site assessments, long-term projections of performance, oversight by independent scientific boards and committees, historically high Congressional interest, and review by the public and several federal agencies, over the course of many years, before disposal may occur. Based thereon, it is EPA's belief that any decision to dispose of radioactive wastes in these, or any other, disposal systems will be subject to intensive and thorough public scrutiny under the national disposal program that is at least equivalent to that which might otherwise occur through direct application of the SDWA. In other words, EPA has identified no shortfall in the process that might jeopardize or interfere with the benefits and purposes underlying the SDWA.

As noted above, EPA has no need to address, and is not addressing, whether disposal at some or all of the facilities potentially covered by these rules constitute underground injection under the SDWA. Instead, EPA has determined for policy reasons to propose provisions that provide an equivalent level of protection as would be provided by regulation under the SDWA. In promulgating the AEA, the NWPA, and the WIPP LWA, Congress has articulated a comprehensive scheme for regulating radioactive waste disposal. The Congressional purposes underlying the pre-existing SDWA are consistent with those authorities. Thus, today's proposal advances both purposes—it comprehensively regulates radioactive waste disposal in a manner that protects groundwater resources as effectively as the SDWA.

Nevertheless, as part of this rulemaking, EPA seeks public comment on how, if at all, implementation of subpart C, in lieu of direct compliance with the SDWA regulations, to the extent that that statute applies for a particular disposal system, if at all, would not be equivalent to direct application of the SDWA. These comments may address procedural and substantive concerns.

Policy and Technical Rationale for Proposed Subpart C

EPA Approach to Ground-Water Protection

Since the time of the court's decision in *NRDC* v. *EPA*, the Agency has been developing an overall ground-water protection strategy. Ground-water contamination is of particular concern to the Agency because of its potential impact on sources of drinking water. Over 50 percent of the U.S. population draws upon ground water for its potable water supply. Approximately 117 million people in the U.S. get their drinking water from ground water supplied by 48,000 community public water systems and approximately 12 million individual wells. The remaining people get their drinking water from 11,000 public water systems drawing from surface-water sources. About 95 percent of rural households depend on ground water, as does a still larger proportion (97 percent) of the 165,000 non-community public water supplies (such as those for camps or restaurants serving a transient population). Finally, 34 of the 100 largest U.S. cities rely completely or partially on ground water.

In January 1990, EPA completed development of a strategy to guide future EPA and State activities in ground-water protection and cleanup. Two papers were developed by an Agency-wide Ground Water Task Force and were issued for public review: An EPA Statement of Ground-Water Principles and an options paper covering the issues involved in defining the Federal/State relationship in ground-water protection. These papers and other Task Force documents have been combined into an EPA Ground-Water Task Force Report: "Protecting The Nation's Ground Water: EPA's Strategy for the 1990's" (EPA 21Z–1020 July 1991.)

This report is intended to set forth an effective approach for protecting the Nation's ground-water resources. It will be reflected in EPA policies, programs, and resource allocations and is intended to guide EPA, States and local governments, and other parties in carrying out ground-water protection programs.

A key element of EPA's strategy for ground-water protection and cleanup is the overall goal to prevent adverse effects on human health and the environment and protect the environmental integrity of the nation's ground-water resources. Ground water needs to be protected to ensure that the nation's currently used and potential sources of drinking water, both public and private, are preserved for present and future generations.

In carrying out its programs, the Agency uses maximum contaminant levels (MCLs) under the SDWA as "reference points" for water-resource protection efforts when the ground water in question is a potential source of drinking water. Best technologies and management practices are relied upon to protect ground water to the maximum extent practicable. Detection of a percentage of the MCL at an appropriate monitoring location is used to trigger consideration of additional action, e.g., additional monitoring, or restricting or banning the use of the potential

contaminant. Breaching the MCL would be considered a failure of prevention.

For all these reasons, protection of ground water is a critical factor in devising a regulatory approach for waste management and disposal. EPA is, therefore, proposing to add a new Subpart to the 40 CFR part 191 standards—subpart C, "Environmental Standards for Ground-Water Protection." These proposed requirements apply to radioactive waste disposal facilities and parallel the MCL dose-limit requirements under 40 CFR part 141.

As discussed herein, EPA is today proposing separate ground-water protection requirements because, as discussed below, ground water is unique and deserving of pollution controls separate from other environmental media. (Although, § 191.15 of today's proposal limits the total risk to individuals from radiation doses received through all environmental media.)

For instance, Agency analyses indicate that, of all the potential environmental pathways, travel through ground water is the most likely to the accessible environment at most disposal sites. Moreover, because ground water is not directly accessible, its contamination is far more difficult to monitor and/or clean-up than is contamination in other environmental media.

In addition, ground water generally moves slowly; velocities are usually in the range of 5 to 50 feet per year. Large amounts of a contaminant can enter an aquifer and remain undetected until a water well or surface water body is affected. Moreover, contaminants in ground water—unlike those in other environmental media like air or surface water—generally move in a plume with relatively little mixing or dispersion, so concentrations can remain high. These plumes of relatively concentrated contaminants move slowly through aquifers and may be present for many years—sometimes for decades or longer—potentially making the resource unusable for extended periods of time. Because an individual plume may underlie only a very small part of the land surface, it can be difficult to detect by aquifer-wide or regional monitoring. Of course, over thousands of years, monitoring is unlikely, avoidance will be difficult, and the area affected may be large. All of which argues in favor of effective ground-water protection so that the pollution may be avoided in the first instance.

The Agency believes that it is prudent to protect ground-water resources from contamination rather than rely upon clean-up. Stringent controls can help prevent releases from radioactive waste disposal facilities from causing present or future community water suppliers to have to implement expensive clean-up or treatment procedures and protects individual users, as well. Moreover, absent protection, the disposal system could find itself subject to the clean-up requirements under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund).

Today's proposal limits radioactive contamination in both public and private underground sources of drinking water to the MCLs found in the Agency's NPDWRs for radionuclides (40 CFR 141.15 and 141.16). Consistent with the 1987 First Circuit ruling, the proposed standard pertains to underground drinking water sources located outside the controlled area surrounding radioactive waste disposal facilities.

In proposing this approach, the Agency notes that, at most sites, releases of radionuclides into, and subsequent transport through, ground water is the most likely pathway to the accessible environment and to people. Once contaminated, an aquifer remains polluted for a relatively long time and it may be extremely difficult to restore the quality of the water in the aquifer.

This proposed approach is consistent with the Agency's overall approach to ground-water protection, that is, to prevent the contamination of current and potential sources of drinking water. This approach is reflected in Agency regulations pertaining to hazardous waste disposal (40 CFR part 264), municipal waste disposal (40 CFR part 257 and 258), underground injection (40 CFR parts 144, 146, and 148), and uranium mill tailings disposal (40 CFR part 192). The Agency's analyses demonstrate that these objectives are scientifically and technically achievable assuming well-selected and well-designed disposal sites and systems, respectively.

Proposed subpart C protects what is known as an "underground source of drinking water" (USDW). The definition of "underground source of drinking water", and indeed all of the definitions pertinent to proposed subpart C, are taken directly from the Agency's underground injection control regulations found in 40 CFR parts 144–146. These definitions are designed to be consistent with the SDWA requirements. The definition of "underground source of drinking water" received extensive discussion in the legislative history of the SDWA. The Committee Report to the Act instructed EPA to construe the term liberally: Both currently used and potential underground sources of drinking water warrant inclusion in the definition. This reflects a policy to protect ground water that is to be used in the future by today's proposal.

As a guide to the Agency, the Committee Report suggested that aquifers with fewer than 10,000 parts per million (or milligrams per liter) of total dissolved solids (TDS) be included [H.R. No. 93–1185, p. 32]. The Agency has reviewed the current information on the drinking water use of aquifers containing high levels of total dissolved solids. This review found that the use of water containing up to 3,000 milligrams per liter TDS is fairly widespread. The Agency has also found that ground water containing as much as 9,000 milligrams per liter TDS is currently supplying public water systems. EPA believes that technology for treating water containing high levels of TDS is advancing. Therefore, based on this review and the legislative history of the SDWA, the Agency believes that it is reasonable to protect aquifers containing water with fewer than 10,000 milligrams per liter TDS as potential sources of drinking water.

The ground-water protections found in today's proposal apply to all aquifers or their portions, with fewer than 10,000 milligrams per liter TDS, which currently or potentially could supply a public water system.

Proposed subpart C protects USDWs in the vicinity of waste disposal systems by requiring that the disposal systems be designed so as to assure that ground water will not be contaminated above the MCLs. In other words, before disposal may occur, the implementing agency must determine that the undisturbed performance of the disposal system, over a 10,000-year period, will not result in releases which exceed the MCLs.

For consistency among today's proposed individual protection requirements, the reinstated containment requirements, and the SDWA underground injection requirements, the Agency is proposing a 10,000-year time frame for the duration of the ground-water protection requirements pertaining to disposal facilities. The disposal standards in subpart C are design standards. Implementing agencies will determine compliance by evaluating 10,000-year projections of the disposal system performance. The implementing agency must determine that the natural and engineered features of a disposal facility, not disrupted by human intrusion or the occurrence of unlikely

natural events, will prevent degradation of any underground source of drinking water outside the controlled area beyond the radionuclide MCLs. The Agency is not soliciting comment on the UIC program requirements. Most of these requirements were promulgated in the 1970s and 1980s and were subject to extensive notice and comment procedures at that time. However, the Agency is soliciting comment on the broader issues of the appropriateness and desirability of making the ground-water protection provisions found in 40 CFR part 191 consistent with the UIC program protection requirements.

As noted earlier, it is important to emphasize that today's proposal does not address subpart A or the portions of 40 CFR part 191 which were reinstated by the WIPP LWA; it is strictly limited to the abovedescribed individual and ground-water protection proposals (40 CFR 191.15 and subpart C) and associated definitions. Thus, EPA will not respond to comments on subpart A or the reinstated portions of 40 CFR part 191.

Questions for Comment

The Agency is requesting comment on the proposed amendments to 40 CFR part 191 found in today's proposal. As noted previously, however, the scope of today's rulemaking does not extend to other provisions of part 191. With that stipulation, EPA invites comment on whether today's proposal adequately protects public health and the environment from releases of radioactive material to the general environment. In addition, there are several specific issues on which the Agency would like commentors to focus.

(1) Are there reasons for adopting a different regulatory time frame for the individual and ground-water protection requirements than the 10,000-year period of analysis associated with the containment requirements of 40 CFR 191.13?

(2) In subpart C, the Agency proposes to prevent radioactive contamination of "underground sources of drinking water" beyond the limits found in 40 CFR part 141—the National Primary Drinking Water Regulations. The Agency is aware, however, that there could be some types of ground water that warrant additional protection either because they are of unusually high value or are more susceptible to contamination. Should the Agency adopt non-degradation requirements for especially valuable ground water? If so, what types of ground water warrant this extra level of protection?

Regulatory Analyses

Regulatory Impact Analysis

Under Executive Order No. 12291, the Agency must judge whether a regulation is "major" and thus subject to the requirements of a Regulatory Impact Analysis. The notice published today is not major because the rule will not result in an effect on the economy of $100 million per year or more, will not result in increased costs or prices, will not have significant adverse effects on competition, employment, investment, productivity, and innovation, and will not significantly disrupt domestic or export markets. Therefore, the Agency has not prepared a Regulatory Impact Analysis under the Executive Order. The Agency has, however, prepared an Economic Impact Analysis which assesses the costs of today's proposed standards.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) requires each Federal agency to consider the effects of their regulations on small entities and to examine alternatives that may reduce these effects. The nature of this proposal is to limit releases from the disposal of radioactive waste. Since the disposal will only be carried out by the DOE and the waste is being stored and managed by DOE and electric utilities that own and operate nuclear power plants, the Agency certifies that this regulation will not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

There are no information reporting or recordkeeping requirements associated with this rule.

List of Subjects

40 CFR Part 144

Administrative practice and procedure, Hazardous waste, Water supply.

40 CFR Part 191

Environmental protection, Nuclear energy, Radiation protection, Uranium, Waste treatment and disposal.

Dated: January 20, 1993.

William K. Reilly,

Administrator.

The Environmental Protection Agency is hereby proposing to amend parts 144 and 191 of title 40, Code of Federal Regulations, as follows:

PART 144—UNDERGROUND INJECTION CONTROL PROGRAM

1. The authority citation for part 144 is revised to read as follows:

Authority: Safe Drinking Water Act, 42 U.S.C. 300f et seq.; Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq.; Atomic Energy Act of 1954, as amended, 42 U.S.C. 2021(h) and 2201; Waste Isolation Pilot Plant Land Withdrawal Act, Pub. L. 102–579.

2. Section 144.31(a) is amended by adding the following sentence at the end of the paragraph to read as follows:

§ 144.31 Application for a permit; authorization by permit.

(a) * * * A license, a permit, a certification, or an approval otherwise of a waste disposal system, as defined in 40 CFR part 191, subpart B, which complies with 40 CFR part 191, subpart C, shall constitute compliance with the SDWA statutory requirements, and the UIC program requirements, not to endanger underground sources of drinking water consistent with this part, to the extent that such a requirement would otherwise apply to a particular disposal system.

* * * * *

PART 191—ENVIRONMENTAL RADIATION PROTECTION STANDARDS FOR THE MANAGEMENT AND DISPOSAL OF SPENT NUCLEAR FUEL, HIGH-LEVEL AND TRANSURANIC RADIOACTIVE WASTES

3. The authority citation for part 191 is revised to read as follows:

Authority: The Atomic Energy Act of 1954, as amended; Reorganization Plan No. 3 of 1970; the Nuclear Waste Policy Act of 1982, as amended; and the Waste Isolation Pilot Plant Land Withdrawal Act

4. Section 191.11(b) is revised to read as follows:

§ 191.11 Applicability.

* * * * *

(b) This subpart does not apply to:

(1) Disposal directly into the oceans or ocean sediments;

(2) Wastes disposed of before November 18, 1985; and

(3) The characterization, licensing, construction, operation, or closure of any site required to be characterized under section 113(a) of Public Law 97–425.

5. Section 191.12 is amended by removing the paragraph designations for all definitions and placing them in alphabetical order; by removing the definitions *community water system, significant source of ground water, special source of ground water,* and transmissivity; revising the definition of the term *implementing agency;* and adding the following definitions, in alphabetical order, to read as follows:

§ 191 12 Definitions.

* * * * *

Annual committed effective dose means the committed effective dose resulting from a one-year intake of radionuclides released plus the annual effective dose caused by direct radiation from facilities or activities subject to subparts B and C.

* * * * *

Dose equivalent means the product of absorbed dose and appropriate factors to account for differences in biological effectiveness due to the quality of radiation and its spatial distribution in the body; the unit of dose equivalent is the "rem" ("sievert" in SI units).

Effective dose means the sum over specified tissues of the products of the dose equivalent received following an exposure of, or an intake of radionuclides into, specified tissues of the body, multiplied by appropriate weighting factors. This allows the various tissue-specific health risks to be summed into an overall health risk. The method used to calculate effective dose is described in appendix B of this part.

* * * * *

Implementing agency means the Commission for facilities licensed by the Commission, the Agency for those implementation responsibilities given to the Agency by the WIPP Land Withdrawal Act, and the Department of Energy for any other disposal facility and for implementation responsibilities for the Waste Isolation Pilot Plant not given to the Agency.

International System of Units is the version of the metric system which has been established by the International Bureau of Weights and Measures and is administered in the United States by the National Institute of Standards and Technology. The abbreviation for this system is "SI."

* * * * *

Radioactive material means matter composed of or containing radionuclides, with radiological half-lives greater than 20 years, subject to the Atomic Energy Act of 1954, as amended.

Sievert is the SI unit of effective dose and is equal to 100 rem or one joule per kilogram. The abbreviation is "Sv."

SI unit means a unit of measure in the International System of Units.

* * * * *

6. Section 191.15 is revised to read as follows:

§ 191.15 Individual protection requirements.

(a) Disposal systems for waste and any associated radioactive material shall be designed so that, for 10,000 years after disposal, undisturbed performance of the disposal system shall not cause the annual committed effective dose, received through all potential pathways from the disposal system, to any member of the public in the accessible environment, to exceed 15 millirems (150 microsieverts).

(b) Annual committed effective doses shall be calculated in accordance with appendix B of this part.

(c) Compliance assessments need not provide complete assurance that the requirements of § 191.15(a) of this subpart will be met. Because of the long time period involved and the nature of the processes and events of interest, there will inevitably be substantial uncertainties in projecting disposal system performance. Proof of the future performance of a disposal system is not to be had in the ordinary sense of the word in situations that deal with much shorter time frames.

(d) Compliance with the provisions in this section does not negate the necessity to comply with any other applicable Federal regulations or requirements.

(e) The standards in this section shall be effective on [the effective date of the final rule].

§ 191.16 [Removed]

7. Section 191.16 is removed.

§ 191.17 [Redesignated as § 191.16]

8. Section 191.17 is redesignated § 191.16.

9. Subpart C is added to read as follows:

Subpart C—Environmental Standards for Ground-Water Protection

Sec.

Subpart C—Environmental Standards for Ground-Water Protection

§ 191.21 Applicability.

(a) This subpart applies to:

(1) Radiation doses received by members of the public as a result of activities subject to subpart B of this part; and

(2) Radioactive contamination of underground sources of drinking water in the accessible environment as a result of such activities.

(b) This subpart does not apply to:

(1) Disposal directly into the oceans or ocean sediments;

(2) Wastes disposed of before November 18, 1985; and

(3) The characterization, licensing, construction, operation, or closure of any site required to be characterized under section 113(a) of Public Law 97-425.

§ 191.22 Definitions.

Unless otherwise indicated in this subpart, all terms have the same meaning as in subparts A and B of this part.

Public water system means a system for the provision to the public of piped water for human consumption, if such system has at least fifteen service connections or regularly serves at least twenty-five individuals. Such term includes:

(1) Any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system; and

(2) Any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

Total dissolved solids means the total dissolved solids in water as determined by use of the method specified in 40 CFR part 136.

Underground source of drinking water means an aquifer or its portion which:

(1) Supplies any public water system; or

(2) Contains a sufficient quantity of ground water to supply a public water system; and

(i) Currently supplies drinking water for human consumption; or

(ii) Contains fewer than 10,000 milligrams of total dissolved solids per liter.

§ 191.23 General provisions.

(a) Determination of compliance with this subpart shall be based upon underground sources of drinking water which have been identified on the date the implementing agency determines compliance with subpart C of this part.

(b) The analytical methods in 40 CFR part 141 shall be used to determine the levels for comparison with the limits in 40 CFR part 141.

§ 191.24 Disposal standards.

(a) Disposal systems for waste and any associated radioactive material shall be designed so that 10,000 years of undisturbed performance after disposal shall not cause the levels of radioactivity in any underground source of drinking water, in the accessible environment, to exceed the limits specified in 40 CFR part 141 as they exist on the date the implementing agency determines compliance with subpart C of this part.

(b) Compliance assessments need not provide complete assurance that the requirements of § 191.24(a) of this subpart will be met. Because of the long time period involved and the nature of the processes and events of interest, there will inevitably be substantial uncertainties in projecting disposal system performance. Proof of the future performance of a disposal system is not to be had in the ordinary sense of the word in situations that deal with much shorter time frames.

§ 191.25 Compliance with other Federal regulations.

Compliance with the provisions in this subpart does not negate the necessity to comply with any other applicable Federal regulations or requirements.

§ 191.26 Effective date.

The standards in this subpart shall be effective on [the effective date of the final rule].

Appendix B—[Redesignated as Appendix C]

10. Appendix B is redesignated Appendix C.

11. A new Appendix B is added to read as follows:

Appendix B—Calculation of Annual Committed Effective Dose

Equivalent dose. The calculation of the *committed effective dose* (CED) begins with the determination of the equivalent dose, H^T, to the tissues, T, listed in Table B.2 below by using the equation:

$$H_T = \sum D_{T,R} \bullet w_R$$

where $D_{T,R}$ is the absorbed dose in rads (one gray, an SI unit, equals 100 rads) averaged over the tissue or organ, T, due to radiation type, R, and w_R is the radiation weighting factor which is given in Table B.1 below. The unit of equivalent dose is the rem (sievert, in SI units).

TABLE B.1—RADIATION WEIGHTING FACTORS, w_R [1]

Radiation type and energy range [2]	w_R value
Photons, all energies	1
Electrons and muons, all energies	1
Neutrons, energy:	
< 10 keV	5
10 keV to 100 keV	10
> 100 keV to 2 MeV	20
>2 MeV to 20 MeV	10
> 20 MeV	5
Protons, other than recoil protons, > 2 MeV	5
Alpha particles, fission fragments, heavy nuclei	20

[1] All values relate to the radiation incident on the body or, for internal sources, emitted from the source.

[2] See paragraph A14 in ICRP Publication 60 for the choice of values for other radiation types and energies not in the table.

Effective dose. The next step is the calculation of the *effective dose, E.* The probability of occurrence of a stochastic effect in an organ or tissue is assumed to be proportional to the equivalent dose in the organ or tissue. The constant of proportionality differs for the various tissues of the body, but in assessing health detriment the total risk is required. This is taken into account using the tissue weighting factors, w_T in Table B.2, which represent the proportion of the stochastic risk resulting from irradiation of tissue T to the total risk when the whole body is irradiated uniformly and H_T is the equivalent dose in tissue T, in the equation:

$$E = \sum W_T \bullet H_T$$

TABLE B.2—TISSUE WEIGHTING FACTORS, w_T [1]

Organ or tissue	w_T value
Gonads	0.20
Red bone marrow	0.12
Colon	0.12
Lung	0.12
Stomach	0.12
Bladder	0.05
Breast	0.05
Liver	0.05
Oesophagus	0.05
Thyroid	0.05
Skin	0.01
Bone surfaces	0.01
Remainder	[2,3] 0.05

[1] The values have been developed from a reference population of equal numbers of both sexes and a wide range of ages. In the definition of effective dose, they apply to individuals and populations and to both sexes.

[2] For purposes of calculation, the remainder is comprised of the following additional tissues and organs: adrenals, brain, upper large intestine, small intestine, kidney, muscle, pancreas, spleen thymus, and uterus. The list includes organs which are likely to be selectively irradiated. Some organs in the list are known to be susceptible to cancer induction. If other tissues and organs subsequently become identified as having a significant risk of induced cancer, they will then be included either with a specific w_T or in this additional list constituting the remainder. The latter may also include other tissues or organs selectively irradiated.

[3] In those exceptional cases in which a single one of the remainder tissues or organs receives an equivalent dose in excess of the highest dose in any of the twelve organs for which a weighting factor is specified, a weighting factor of 0.025 should be applied to that tissue or organ and a weighting factor of 0.025 to the average dose in the rest of the remainder as defined above.

Annual committed tissue or organ equivalent dose. For internal irradiation from incorporated radionuclides, the total absorbed dose will be spread out in time, being gradually delivered as the radionuclide decays. The time distribution of the absorbed dose rate will vary with the radionuclide, its form, the mode of intake and the tissue within which it is incorporated. To take account of this distribution the quantity *committed equivalent dose,* $H_T(\tau)$ where τ is the integration time in years following an intake over any particular year, is used and is the integral over time of the equivalent dose rate in a particular tissue or organ that will be received by an individual following an intake of radioactive material into the body. The time period, τ, is taken as 50 years as an average time of exposure following intake:

$$H_T(\tau) = \int_{t_0}^{t_0 + 50} H_T(t)\, dt$$

for a single intake of activity at time t_0 where $H_T(t)$ is the relevant equivalent-dose rate in an organ or tissue at time t. For the purposes of this rule, the previously mentioned single intake may be considered to be an annual intake.

Annual committed effective dose. If the committed equivalent doses to the individual tissues or organs resulting from an annual intake are multiplied by the appropriate weighting factors, w_T, and then summed, the result will be the *annual committed effective dose,* $E(\tau)$:

$$E(\tau) = \sum w_T \bullet H_T(\tau).$$

[FR Doc. 93-2778 Filed 02-09-93; 8:45 am]

BILLING CODE 6560-50-P

federal register

Wednesday
February 10, 1993

Part III

Department of Education

Office of Special Education and Rehabilitative Services

34 CFR Part 300

Invitation to Comment on the Regulatory Definition of "Serious Emotional Disturbance"; Proposed Rule

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

34 CFR Part 300

Invitation to Comment on the Regulatory Definition of "Serious Emotional Disturbance" and the Use of This Term in the Individuals With Disabilities Education Act

AGENCY: Department of Education.

ACTION: Notice of inquiry.

SUMMARY: In accordance with Section 912(b) of the Rehabilitation Act Amendments of 1992, Public Law 102-569 (Oct. 29, 1992) (1992 Amendments), the Secretary of Education publishes this Notice of Inquiry. The notice solicits from all interested parties written comments on whether there is a need to revise the current regulatory definition of "children with serious emotional disturbance" by replacing it with a definition such as the one set forth in this notice, and whether the term "serious emotional disturbance" or some other term should be used in the Individuals With Disabilities Education Act (IDEA).

DATES: All comments must be received on or before May 11, 1993.

ADDRESSES: Written comments should be addressed to Ms. Martha Coutinho, U.S. Department of Education, 400 Maryland Avenue SW., Switzer Building, room 3522, Washington, DC 20202-2641.

FOR FURTHER INFORMATION CONTACT: Rhonda Weiss, U.S. Department of Education, 400 Maryland Avenue SW., Switzer Building, room 3626, Washington, DC 20202-2720. Telephone: (202) 205-9021. Deaf and hearing-impaired individuals may call (202) 205-9090 for TDD services.

SUPPLEMENTARY INFORMATION: The Secretary solicits public comment on whether the regulatory definition of "children with serious emotional disturbance" should be changed and whether the IDEA should be amended to substitute another term for the term "serious emotional disturbance." The Secretary specifically requests public comment on the following questions:

(a) Is there a need to revise the definition of the term "children with serious emotional disturbance," contained in the regulations implementing Part B of IDEA (Part B), at § 300.7(b)(9) published in the **Federal Register** on September 29, 1992 (57 FR 44794-44802)?

(b) Should the term "serious emotional disturbance" continue to be used in IDEA or should the term "emotional and behavioral disorders" or some other term be substituted?

(c) Should the Secretary propose to replace the definition of the term "children with serious emotional disturbance" in the regulations implementing part B with the following definition, as used in section 602(a)(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(a)(1)):

(1) The term "serious emotional disturbance" means a disability that is characterized by behavioral or emotional response in school programs so different from appropriate age, cultural, or ethnic norms that the responses adversely affect educational performance, including academic, social, vocational or personal skills; more than a temporary, expected response to stressful events in the environment; consistently exhibited in two different settings, at least one of which is school-related; and unresponsive to direct intervention applied in general education, or the condition of a child is such that general education interventions would be insufficient.

The term includes such a disability that co-exists with other disabilities.

The term includes a schizophrenic disorder, affective disorder, anxiety disorder, of other sustained disorder of conduct or adjustment, affecting a child, if the disorder affects educational performance as described in paragraph (1).

(2) The term "seriously emotionally disturbed" means, with respect to a child, that the child has a serious emotional disturbance.

ADDITIONAL INFORMATION: Section 912(b)(4) of the 1992 Amendments requires the Secretary, not later than 10 months after October 29, 1992, the date of enactment of the 1992 Amendments, to prepare and transmit a report to the appropriate committees of Congress, including the Subcommittee on Select Education of the Committee on Education and Labor of the House of Representatives and the Subcommittee on Disability Policy of the Committee on Labor and Human Resources of the Senate. This report will include a summary of the public comments received in response to question (2) of this notice and recommendations concerning whether the IDEA, should be amended.

Dated: February 3, 1993.

Richard W. Riley,

Secretary of Education.

[FR Doc. 93-3024 Filed 2-9-93; 8:45 am]

BILLING CODE 4000-01-M

federal register

Wednesday
February 10, 1993

Part IV

Department of the Interior

Bureau of Indian Affairs

Wind River Irrigation Project O&M Rate Increase; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Wind River Irrigation Project O&M Rate Increase

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Indian Affairs is proposing a $1.10 per acre increase to the Wind River Irrigation Project's current operation and maintenance assessment rate of $10.90 per assessable acre. The new rate would be $12.00 per acre per year. The $1.10 increase would help offset costs increases for personnel, supplies, materials and services, and permit needed maintenance on equipment. The project's annual operation and maintenance charges are based on the estimated normal operating cost of the project for one fiscal year. The Wind River Irrigation Project manager held meetings with the Crow Heart, Ray, Coolidge, and Arapahoe Water User Committees on December 31, 1991, and January 7 and 8, 1992, respectively on this proposed operation and maintenance rate increase.

DATES: The due date for all operation and maintenance charges will be May 1 of each calendar year. Comments must be received at the address below within 30 days after this notice is published in the **Federal Register**.

ADDRESSES: This notice will be published and posted at the following locations:

U.S. Post Offices

Fort Washakie, Wyoming 82514.
Lander, Wyoming 82520,
Riverton, Wyoming 82501

Newspaper

Wyoming State Journal, Lander, Wyoming 82520

Bureau of Indian Affairs

Wind River Agency, Fort Washakie, Wyoming 82514

Nespaper

Riverton Ranger, Riverton, Wyoming 82501.

All comments concerning the proposed 1993 operation and maintenance assessment rate for the Wind River Irrigation Project must be in writing and addressed to the Superintendent, Wind River Agency, Bureau of Indian Affairs, Fort Washakie, Wyoming 82514. Comments must be received within 30 days after this notice is published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Area Director, Billings Area Office, Bureau of Indian Affairs, 316 North 26th Street, Billings, Montana 59101–1397, telephone number (406) 657–6315.

SUPPLEMENTARY INFORMATION: The authority to issue this document is vested in the Secretary of the Interior by 5 U.S.C. 301 and the Act of August 15, 1914 (38 Stat. 583, 25 U.S.C. 385). This notice of operation and maintenance rates and related information is published under the authority delegated to the Assistant Secretary of Indian Affairs by the Secretary of the Interior in 209 DM 8, and is issued pursuant to the Code of Federal Regulations, chapter 25, part 171

Dated: February 2, 1993.

Eddie F. Brown,

Assistant Secretary—Indian Affairs.

[FR Doc. 93–3174 Filed 2–9–93; 8:45 am]

BILLING CODE 4310–02–M

federal register

Wednesday
February 10, 1993

Part V

Department of the Interior

Bureau of Indian Affairs

San Carlos Indian Irrigation Project-Indian Works, Arizona; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

San Carlos Indian Irrigation Project—Indian Works, Arizona

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final notice.

SUMMARY: The purpose of this notice is to establish the assessment rate for the San Carlos Indian Irrigation Project—Indian Works (SCIIP-Indian Works) for 1993. The assessment rate is based on a prepared estimate of the normal costs of operations and maintenance of the irrigation project. Normal operations and maintenance is defined as the average cost per acre of all activities associated with delivery of irrigation waters, including maintaining pumps and other facilities.

DATES: This public notice shall become effective on the date of publication in the Federal Register and will remain effective until further notice.

FOR FURTHER INFORMATION CONTACT: Paul Smith, Superintendent, Pima Agency, Post Office Box 8, Sacaton, Arizona 85247–0008, telephone number (602) 562–3326.

SUPPLEMENTARY INFORMATION: The authorization to issue this document is vested in the Secretary of the Interior by 5 U.S.C. 301 and the Act of August 14, 1914 (38 Stat. 583, 25 U.S.C. 385). On November 27, 1992, the Bureau published notice of proposed operation and maintenance rate for 1993, 57 FR 56428. The notice provided opportunity for interested persons to submit written comments, views or arguments with respect to the proposed rate to the Superintendent within 30 days of publication. The initial rate for 1993 shall be $54 per acre. The proposed rate was based on a budget prepared under the direction of the Superintendent, Pima Agency. The opportunity to review and comment was provided to the Gila River Indian Tribes, Tribal Water Conservation Committee and the general public. This opportunity was provided before the final rate was set. No comments were received during the comment period. This notice sets forth the 1993 operation and maintenance charge and related information applicable to the San Carlos Indian Irrigation Project-Indian Works, Arizona. Pursuant to Secretarial Order #3150, Section 7b, "The Commissioner of Indian Affairs and the Deputy Commissioner of Indian Affairs may sign regulations and Federal Register notices necessary to fix operation and maintenance assessment rates at irrigation projects and electric power rates at electric power projects."

BASIC ASSESSMENT: Operation and maintenance charges shall be assessable against 50,546 acres of tribal lands and trust patent lands of the SCIIP-Indian Works within the boundaries of the Gila River Indian Reservation, Arizona. For the calendar year 1993 and subsequent years, unless changed by future publication, the basic rate assessed on Indian-owned lands leased and operated by non-Indians is hereby fixed at $56 per acre.

PAYMENT: The basic charge shall become due January 1, 1993 and must be paid within 30 days after January 1 of each year thereafter. No irrigation water shall be delivered to lands leased to non-Indian prior to payment of the basic charge. Payment for excess water, if available, shall be made prior to delivery. Interest and penalty fees are assessed, where required by law, on all delinquent assessment charges as prescribed in the CFR, title 4, part 102, Federal Claims Collection Standards and 42 BIAM Supplemental 3, part 3.8, Debt Collection Procedures. Payment of all assessment shall be made at the office of the Superintendent, Sacaton, Arizona.

DELIVERY: Lease approval by the Superintendent shall be required prior to the first delivery of irrigation water. For all deliveries of water, the water user shall notify the Branch of Land Operations (by water ticket) as to the desired location, quantity and desired delivery time. Notification by the water user shall be no less than 72 hours prior to the requested delivery time.

DISTRIBUTION AND APPORTIONMENT: The stored and pumped irrigation waters of the SCIIP-Indian Works are a common water supply in which all project lands are entitled to share equitably. Water users will be notified of the available apportionment (stored and pumped waters) at the beginning of each irrigation season and at later dates as additional apportionments are made. When natural flow or other free waters are available, the Branch of Land Operations shall ensure these waters are distributed equitably on a monthly basis. Such water shall not be counted as a part of the apportioned share of the lands on which it is used. The diversion right of 6 acre-feet per acre, less system losses, establishes the duty of water to the land.

Dated: January 29, 1993.

Stan Speaks,

Deputy Commissioner of Indian Affairs.

[FR Doc. 93–3175 Filed 2–9–93; 8:45 am]

BILLING CODE 4310–02–M

federal register

Wednesday
February 10, 1993

Part VI

Department of the Interior

Bureau of Indian Affairs

Blackfeet Irrigation Project O&M Rate Increase; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Blackfeet Irrigation Project O&M Rate Increase

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Indian Affairs is proposing a $2 per acre increase to the Blackfeet Irrigation Project's current operation and maintenance assessment rate of $8 per assessable acre. The $2 increase would help offset cost increases for personnel, supplies, materials and services, and allow progress on maintenance deferred during previous years. The project's annual operation and maintenance charges are based on the estimated normal operating cost of the project for one fiscal year.

DATES: The due date for all operation and maintenance charges will be May 1 of each calendar year. Comments must be received at the address below within 30 days after this notice is published in the **Federal Register.**

ADDRESSES: This notice will be published and posted at the following locations:

U.S. Post Offices

Browning, Montana 59417
Cut Bank, Montana 59427
Valier, Montana 59486

Newspapers

Glacier Reporter, Browning, Montana 59417
Pioneer Press, Cut Bank, Montana 59427

Bureau of Indiana Affairs

Blackfeet Agency, Browning, Montana 59417

All comments concerning the proposed 1993 operation and maintenance assessment rate for the Blackfeet Irrigation Project must be in writing and addressed to the Superintendent of the Blackfeet Agency, Blackfeet Agency, Browning, Montana 59417. Comments must be received within 30 days after this notice is published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Area Director, Billings Area Office, Bureau of Indian Affairs, 316 North 26th Street, Billings, Montana 59101–1397, telephone number (406) 657–6315.

SUPPLEMENTARY INFORMATION: The authority to issue this document is vested in the Secretary of the Interior by 5 U.S.C. 301 and the Act of August 15, 1914 (38 Stat. 583, 25 U.S.C. 385). This notice of operation and maintenance rates and related information is published under the authority delegated to the Assistant Secretary of Indian Affairs by the Secretary of the Interior in 209 DM 8, and is issued pursuant to the Code of Federal Regulations, chapter 25, part 171.

Dated: February 2, 1993.

Eddie F. Brown,

Assistant Secretary-Indian Affairs.

[FR Doc. 93–3176 Filed 2–9–93; 8:45 am]

BILLING CODE 4310–2–M

federal register

Wednesday
February 10, 1993

Part VII

Department of the Interior

Bureau of Indian Affairs

Grant Availability for Projects Implementing Traffic Safety on Indian Reservations; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Grant Availability to Federally-Recognized Indian Tribes for Projects Implementing Traffic Safety on Indian Reservations

December 14, 1992.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Indian Affairs intends to make funds available to Federally-Recognized Indian Tribes on an annual basis for the purpose of implementing traffic safety projects which are designed to reduce the number of traffic accidents and their resulting fatalities, injuries, and property damage within Indian reservations. Due to the limited funding available for this program, all projects will be reviewed and selected on a competitive basis. This notice is intended to inform Indian tribes on the availability of funds and the process in which the projects are selected.

DATES: Requests for funds must be received by June 1 of each program year by the Division of Safety Management in Albuquerque, New Mexico 87102.

ADDRESSES: Each tribe must submit its request to the Division of Safety Management, P.O. Box 2006, Albuquerque, New Mexico, attention "Indian Highway Safety Program Coordinator". Information packets will be distributed on March 1 of each program year. Information packets will be sent to the tribal address as shown on the latest Tribal Leaders List which is compiled by the Bureau of Indian Affairs' Tribal Government Services, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tribes should direct questions concerning the grant program to the Bureau's Indian Highway Safety Program Coordinator or to Charles L. Jaynes, Program Administrator, Bureau of Indian Affairs, P.O. Box 2006, Albuquerque, New Mexico 87102. Telephone: (505) 766–2181.

SUPPLEMENTARY INFORMATION:

Background

The Federal-Aid Highway Act of 1973 (Pub. L. 93–87) provides for U.S. Department of Transportation funding to assist Indian tribes in implementing highway safety projects. These projects are designed to reduce the number of traffic crashes and their resulting fatalities, injuries, and property damage within Indian reservations. All Federally-recognized Indian tribes on Indian reservations are eligible to receive this assistance, and at such as highway safety projects are approved, the tribal governing bodies will carry out and administer the programs. All tribes which avail themselves of this assistance are reimbursed for cost incurred under the terms of a Federal/Reservation agreement.

Responsibilities

For purposes of application of the Act, Indian reservations are collectively considered a "State" and the Secretary, U.S. Department of the Interior (DOI), is considered the "Governor of a State". The Secretary, DOI, delegated the authority to administer the programs throughout all the Indian reservations in the United States to the Assistant Secretary—Indian Affairs. The Assistant Secretary—Indian Affairs further delegated the responsibility for primary administration of the Indian Highway Safety Program to the Central Office Division of Safety Management (DSM), located in Albuquerque, New Mexico. The Chief, DSM, as Program Administrator of the Indian Highway Safety Program, has one full-time staff member to assist in program matters and provide technical assistance to the Indian tribes. It is at this level that contacts with the U.S. Department of Transportation are made with respect to program approval, funding of projects and technical assistance. The U.S. Department of Transportation, through the National Highway Traffic Safety Administration (NHTSA) and the Federal Highway Administration (FHWA), is responsible for assuring that the Indian Highway Safety Program is carried out in accordance with 23 U.S.C. 402 and other applicable Federal regulations.

The National Highway Traffic Safety Administration is responsible for the apportionment of funds to the Secretary of the Interior, review and approval of the Highway Safety Plan involving NHTSA highway program areas and technical guidance and assistance to BIA.

The Federal Highway Administration is responsible for review and approval of Highway Safety Plan involving FHWA highway safety program areas and technical guidance and assistance to BIA.

Program Areas

The Surface Transportation and Uniform Relocation Assistance Act of 1987, 23 U.S.C. 402(j), required the Department of Transportation to conduct a rulemaking process to determine those programs most effective in reducing traffic crashes, injuries and fatalities. Those program areas were determined to be national priority program areas, and include NHTSA Program areas: (1) Alcohol and Other Drug Countermeasures; (2) Police Traffic Services; (3) Occupant Protection; (4) Traffic Records, and; (5) Emergency Medical Services. FHWA Program Area: Roadway Safety. NHTSA and FHWA Program Areas: Pedestrian and Bicycle Safety.

Funding Criteria

The Bureau of Indian Affairs will reimburse for eligible costs associated with the following:

(1) Alcohol and Other Drug Countermeasures—Salary (Driving While Intoxicated (DWI) enforcement/education; Standardized Field Sobriety Training (SFST); Approved breath-testing equipment (must be included on most recent Conforming Product List); community/school alcohol traffic safety education; DWI offender education; prosecution; adjudication; and vehicle expenses.

(2) Police Traffic Services—Salary (traffic enforcement/education); traffic law enforcement/radar training; speed enforcement equipment (must be listed on Consumer Products List); community/school education; and vehicle expenses.

(3) Occupant Protection—(A) Child Passenger Safety—child car seat loaner program; car seat transportation/storage, and; public information/education. (B) Community Seat Belt Program—Salary; educational/promotional materials; office expenses; training law enforcement, and; Occupant Protection Usage and Enforcement (OPUE) Training.

(4) Traffic Records—Salary; computerized equipment.

(5) Emergency Medical Services—Training; public information education.

(6) Roadway Safety—Traffic signs (warning, regulatory, work zone); hardware and sign posts.

(7) Community Traffic Safety Projects (CTSP)—project management; Public Information and Education Training; law enforcement; prosecution; adjudication; data management.

Project Guidelines

Information packets will be forwarded to the tribes on March 1 of each program year. Upon receipt of the information packet, each tribe should prepare a proposed project based upon the following guidelines:

A. *Program Planning.* Program planning shall be based upon the highway safety problems identified and countermeasures selected by the tribe

for the purpose of reducing traffic crash factors.

B. *Problem Identification.* Highway traffic safety problems shall be identified from the best data available. This data may be found in tribal enforcement records on traffic crashes. Other sources of data include ambulance records, court and police arrest records. The problem identification process may be aided by using professional opinions of personnel in law enforcement, Indian Health Service, driver education, road engineers, etc. These data should accompany the funding request. Impact problems should be indicated during the identification process. An impact problem is a highway safety problem that contributes to car crashes, fatalities and/or injuries, and one which may be corrected by the application of countermeasures. Impact problems can be identified from analysis of statewide and/or tribal traffic records. The analyses should consider, as a minimum: pedestrian, motorcycle, pedalcycle, passenger car, school bus, and truck accidents; records on problem drivers, roadside and roadway hazards, alcohol involvement, youth involvement, defective vehicle involvement, suspended or revoked driver involvement, speed involvement and child safety seat usage. Data should accompany the funding request.

C. *Countermeasure Selection.* When tribal highway traffic safety problems are identified, appropriate countermeasures shall be developed by the tribe to solve or reduce the problems. The development of these countermeasures should take into account the overall cost of the countermeasure versus its possible effects on the problem.

D. *Objective/Performance Indicators.* After countermeasure selection, the objective(s) of the project must be expressed in clearly defined, time-framed and measurable terms.

E. *Budget Format.* The activities to be funded shall be outlined according to BIA object groups, i.e., personal services, travel, supplies and materials, equipment, contracts, training, etc. Each object group shall be quantified, i.e., personal activities should show number to be employed, hours to be employed, hourly rate of pay, etc. Each object group shall have sufficient detail to show what is to be procured, unit cost, quarter in which the procurement is to be made and the total cost, including any tribal contribution to the project.

F. *Evaluation Plan.* Evaluation is the process of determining whether a highway safety activity should be undertaken, if it is being properly conducted and if it has accomplished its objectives. A plan explaining how the evaluation will be accomplished and identifying the criteria to be used in measuring performance shall be included in the funding request.

G. *Technical Assistance.* Department of Transportation, State, and Bureau personnel will be available to tribes for technical assistance in the development of tribal projects.

H. *Section 402 Project Length.* Section 402 funds shall not be used to fund the same project at one location or jurisdiction for more than three years.

I. *Certification Regarding Drug-Free Workplace Requirement.* Indian tribes receiving highway safety grants through the Indian Highway Safety Program must certify that they will maintain a drug-free workplace. The certification must be signed by an individual authorized to sign for the tribe or reservation. The certification must be received by the U.S. Department of Transportation prior to the release of grant funds for that tribe or reservation. The certification will be submitted with the tribal highway safety project.

Submission Deadline

Each tribe must submit its funding request to the attention of: Indian Highway Safety Program Coordinator. The request must be received by June 1 of each program year by the Division of Safety Management, Albuquerque, New Mexico. Requests for extension to this deadline will not be granted. Modifications of the funding request received after the close of the funding period will not be considered in the review and action.

Selection Criteria

Each project funding request will be reviewed and evaluated by the Indian Highway Safety Program Office and requests will be ranked by assigning points to four areas of consideration. Those areas of consideration and their respective point values are listed below:

Magnitude of Problem—50 Points

1. Does a highway safety problem exist?
2. Is the problem significant?
3. Does the project contribute to the solution of the problem identified?

Standards for Financial Management System

Tribal financial management systems must provide for:

1. Accurate, current, and complete disclosure of financial results of the highway safety project.
2. Adequate recordkeeping.
3. Control over and accountability for all funds and assets.
4. Comparison of actual with budgeted amounts.
5. Documentation of accounting records.
6. Appropriate auditing. Highway safety projects will be included in the tribal A–128 Single Audit.

Tribes will provide a quarterly financial and program status reports to the BIA Area Office. This report of expenditures will be submitted to the Contracting/Grants Officer no later than fifteen (15) days beyond the reporting month.

Project Monitoring

During the program year, it is the responsibility of the BIA to maintain a degree of project oversight, provide technical assistance as needed to assist the project in fulfilling its objectives, and assure that grant provisions are complied with.

Project Evaluation

A performance evaluation will be conducted for each highway safety project by the Bureau of Indian Affairs. The evaluation will measure the actual accomplishments to the planned activity.

Eddie F. Brown,

Assistance Secretary—Indian Affairs.

[FR Doc. 93–3177 Filed 2–9–93; 8:45 am]

BILLING CODE 4310–02–M

federal register

Wednesday
February 10, 1993

Part VIII

Department of Transportation

Federal Aviation Administration

14 CFR Part 93

Special Flight Rules in the Vicinity of Niagara Falls, New York; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No. 27145]

Special Flight Rules in the Vicinity of Niagara Falls, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The FAA is considering the initiation of rulemaking to implement special flight rules in the vicinity of Niagara Falls, NY. An informal meeting will be held to provide the opportunity to gather facts relevant to the aeronautical effects of adopting special flight rules for the various classes of airspace users and to provide interested persons an opportunity to present their views. All comments received will be considered prior to the issuance of a Notice of Proposed Rulemaking (NPRM).

DATES: The public meeting will be held on March 9, 1993, starting at 7:00 p.m. Written comments are also invited and must be received on or before April 5, 1993.

ADDRESSES: The public meeting will be held at Niagara Falls City Hall, 745 Main Street, Niagara Falls, New York. Persons unable to attend the meeting may mail their comments in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Rules Docket (AGC–10), Docket No. 27145, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Requests to present a statement at the meeting or questions regarding the logistics of the meeting should be directed to Florence Hamn, Office of Rulemaking, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–9822; telefax (202) 267–5075.

Questions concerning the subject matter of the meeting should be directed to Melodie DeMarr, Federal Aviation Administration, Air Traffic Rules Branch, ATP–230, 800 Independence Avenue, SW., Washington DC 20591; telephone (202) 267–9247; telefax (202) 267–5809.

SUPPLEMENTARY INFORMATION:

Participation at the Meeting

Requests from persons who wish to present oral statements at the public meetings should be received by the FAA no later than February 26, 1993. Such requests should be submitted to Florence Hamn, as listed above in the section titled **"FOR FURTHER INFORMATION CONTACT"** and should include a written summary of oral remarks to be presented, and an estimate of time needed for the presentation. Requests received after the dates specified above will be scheduled if there is time available during the meeting; however, the names of those individuals may not appear on the written agenda. The FAA will prepare an agenda of speakers that will be available at the meeting. In order to accommodate as many speakers as possible, the amount of time allocated to each speaker may be less than the amount of time requested.

Background

The scenic Niagara Falls attract millions of sightseers annually. The small airspace surrounding the scenic falls is frequently congested with air traffic.

On September 29, 1992, a fatal accident occurred when two sightseeing helicopters collided over the falls. To ensure safety, Transport Canada restricted operations within a 3-mile radius of the scenic falls in Canadian airspace, and the FAA issued a coordinating Temporary Flight Restriction (TFR) covering U.S. airspace. After soliciting public comment and carefully evaluating the needs of operators and the public interest, Transport Canada has designated the area within a 2-mile radius of the scenic falls (CYR–518), excluding U.S. airspace, as restricted uncontrolled airspace from the surface to, but not including, 3500 feet mean sea level (MSL). Thus, the Canadian restriction prohibits aircraft operations within the region except for medical and police operations and those operations specifically authorized by the Regional Director for Air Carrier Operations, Ontario Region, Transport Canada. The FAA has reissued a TFR covering the affected U.S. airspace that corresponds to the Canadian restriction.

The FAA intends to propose rulemaking to establish permanent special flight rules in the vicinity of Niagara Falls, NY. This process will involve careful consideration of the needs of the various users of the airspace, including fixed wing and rotorcraft sightseeing operators, aircraft transiting the area, and airship and balloon operators, as well as the potential impact on high-speed military jet operations out of Niagara Airport and the communities in the scenic falls area. Because of the number of aeronautical operations and the complexity of air traffic in such a small volume of airspace, the FAA is seeking comments from the public before proposing rulemaking.

The purpose of the meeting is to gather information and solicit views for determining the most appropriate special flight rules over U.S. airspace in the vicinity of the falls. Any special flight rules will need to supplement and correspond to the restrictions pertaining to the adjacent Canadian airspace (CYR–518). (A copy of the Canadian airspace requirement can be obtained from the Office of the Director, Air Carrier Operations, Transport Canada, 4900 Yonge Street, suite 300, Willowdale, Ontario M2N 6A5.) Reconsideration or possible modification of the restrictions pertaining to Canadian airspace will not be discussed at this meeting.

Meeting Procedures

The following procedures are established to facilitate the meeting:

(a) There will be no admission fee or other charge to attend or to participate in the meeting.

(b) The meeting will be informal and conducted by a representative of the FAA. Representatives of the FAA will preside over the meeting and present a formal briefing on the current restrictions and any proposals that have been received from the public. All participants will be given an opportunity to make a presentation as time allows.

(c) Any person wishing to make a presentation at the meeting must notify the FAA prior to the meeting and provide an estimate of the time needed for the presentation. This procedure will permit allocation of an appropriate amount of time for each presenter. The FAA may allocate the time available for each presentation to accommodate all speakers. Everyone who has provided advance notice will have the opportunity to address the panel. Time will also be set aside for brief, unscheduled comments. The meeting will be adjourned at any time if all persons present have had the opportunity to speak.

(d) Any person who wishes to present a position paper to the FAA, pertinent to special flight rules in the U.S. airspace near the scenic falls, may do so. Persons wishing to distribute pertinent position papers to the attendees should represent 10 copies of all materials to the panel members. Additional copies of each handout should be available for other attendees.

(e) Materials relating to possible special flight rules in the vicinity of Niagara Falls, NY, will be accepted at the meeting. Every reasonable effort will be made to hear every request for presentation consistent with a

reasonable closing time for the meeting. Persons may submit written comments whether they attend the meeting or not by April 5, 1993.

(f) The meeting will be recorded by a court reporter. A transcript of the meeting and any materials accepted by the panel during the meeting will be included in the public docket. Any person who is interested in purchasing a copy of the transcript should contact the court reporter directly. This information will be available at the meeting.

(g) Statements made by members of the meeting panel are intended to facilitate discussion of the issues or to clarify issues. Any statement made during the meeting by a member of the panel is not intended to be, and should not be construed, as a position of the FAA.

(h) The meeting is designed to solicit public views and more complete information on the possible promulgation of special flight rules in the U.S. airspace near the scenic falls. Therefore, the meeting will be conducted in an informal and nonadversarial manner. No individual will be subject to cross-examination by any other participant; however, panel members may ask questions to clarify a statement and to ensure a complete and accurate record.

(Authority: 49 U.S.C. App. 1302, 1303, 1348, 1354(a), 1421(a), 1424, 2451 *et. seq.*; 49 U.S.C. 106(g)).

Issued in Washington, DC, on February 5, 1993.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

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